

# Accountability in the Caliphate

Third Edition



A K Newell

لِلَّهِ مَا فِي السَّمَاوَاتِ وَمَا فِي الْأَرْضِ ۖ وَإِنْ تُبْدُوا مَا فِي أَنْفُسِكُمْ أَوْ  
تُخْفُوهُ يُحَاسِبْكُمْ بِهِ اللَّهُ ۖ فَيَغْفِرُ لِمَن يَشَاءُ وَيُعَذِّبُ مَن يَشَاءُ ۚ وَاللَّهُ  
عَلَىٰ كُلِّ شَيْءٍ قَدِيرٌ

Everything in the heavens and everything in the earth belongs to Allah. Whether you divulge what is in yourselves or keep it hidden, Allah will still call you to account for it. He forgives whomever He wills and He punishes whoever He wills. Allah has power over all things.

(Holy Qur'an, Chapter al-Baqara, verse 284)

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## INTRODUCTION

If one was asked to describe the Muslim world, dictatorship, tyranny and torture would pretty much sum up life in many Muslim countries today. Hopes of accountability (*muhasabah*), rule of law and justice seem a distant dream. In some countries, the level of cruelty inflicted upon the people easily rivals if not surpasses some of the worst oppression in history. Uzbekistan in Central Asia, while at the extreme end of the spectrum, is a sombre example of political life for many Muslims. In the 2000 elections the President of Uzbekistan Islam Karimov gained 91.9% of the vote. The sole opposition candidate Abdulhasiz Jalalov admitted he only entered the race to make it seem democratic and that even he voted for Karimov!<sup>1</sup> Members of the Islamic political opposition have literally been boiled alive and thousands of Islamic activists continue to be imprisoned suffering unspeakable tortures.

Decades of simmering resentment boiled over in December 2010 when Mohamed Bouazizi's self-immolation in Tunisia set off a series of protests across North Africa and the Middle East. Brutal life-long dictators - Ben Ali in Tunisia, Gadhafi in Libya and Mubarak in Egypt - who had clung to power for years, began falling one by one. The Arab spring as it became known raised the hopes of many that finally more accountable governments would emerge who would be answerable to their people.

Sadly, what has emerged post Arab-spring has in some cases such as Egypt been worse than before. After a brief respite, Egyptian President Sisi ordered hundreds of Muslim Brotherhood opposition activists to be imprisoned and sentenced to death. Classical Islamic text books have been purged from mosque libraries<sup>2</sup> and 27,000 places of worship closed down.<sup>3</sup>

America has made no secret of its plans for the Muslim world. The invasion of Iraq back in 2003 was meant to usher in the start of a 'New Middle East' as Condoleezza Rice coined it. America promised to make Iraq so attractive a democratic model that it would set an example to the entire Middle East.<sup>4</sup> The plan spectacularly failed. 'Democratic Iraq' was, and still is a total failure that no one wants to emulate. Oppressive sectarian policies enacted by the Maliki government allowed the emergence of ISIS and an ensuing brutal civil war between Kurds, Sunnis and Shia who had lived in peace under the Caliphate for over a millennium.

America and the west in general have failed to convince the Muslim world that western secular democracy is the only way to bring about accountable government.

In Pew's 2013 survey, 'The World's Muslims: Religion, Politics and Society' it states:

The percentage of Muslims who say they want shari'a to be "the official law of the land" varies widely around the world, from fewer than one-in-ten in Azerbaijan (8%) to near unanimity in Afghanistan (99%). But solid majorities in most of the countries surveyed across the Middle East and North Africa, sub-Saharan Africa, South Asia and Southeast Asia favor the establishment of shari'a, including 71% of Muslims in Nigeria, 72% in Indonesia, 74% in Egypt and 89% in the Palestinian territories.<sup>5</sup>

In the absence of any credible alternatives, Muslims will naturally look to their history and Islamic culture for a solution to their problems. The Islamic State of the Prophet Muhammad ﷺ and those that followed his example namely the Rightly Guided Caliphs provide unparalleled levels of justice and accountability enshrined within *shari'a* law and implemented by an Islamic government or Caliphate. It's no wonder then that the majority of the Muslim world support *shari'a* law despite the relentless campaign to malign *shari'a* as barbaric and maliciously paint ISIS as a 'Caliphate'. Muslims continue to yearn for a true rightly guided Caliphate that would finish what the Arab spring began.

John Casey sums up this point:

For the Caliphate had existed as long as Islam itself. That Muslims throughout the world form a single community – an Umma – is not the conviction of a few cranks. It is inherent in all Muslim traditions... very many Muslims – perhaps the majority throughout the world – respond to it instinctively as an ideal.<sup>6</sup>

This book will explain how government accountability is achieved through implementing *shari'a* law in a Caliphate. It will elaborate on the various institutionalised mechanisms in place to prevent dictatorship and tyranny from emerging. The vital role of political parties and the state's citizens in holding the government to account will also be addressed.

A K Newell  
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# 1 POWER TENDS TO CORRUPT; ABSOLUTE POWER CORRUPTS ABSOLUTELY

Lord Acton's words above<sup>1</sup> may have been made in the nineteenth century but they ring true with many people today especially those living in the Muslim world. Europe's experience living under tyrannical Kings in the Middle Ages led enlightenment thinkers to create models of government that would severely limit the powers of the ruler and hence the power to become corrupt.

Baron de Montesquieu, a French eighteenth century political philosopher, is the most famous in this regard. In his political treatise, *De l'esprit des lois* (The Spirit of the Laws) he proposes separating powers of government between the executive, legislative and judicial branches.<sup>2</sup> His work heavily influenced the founding fathers of America and in particular James Madison, the 'Father of the Constitution'. This is why these three branches of government are explicitly defined as separate institutions in the American constitution.

The republican and federal system established by America also brought in other mechanisms to prevent the tyranny of a monarchy emerging after they had fought so hard to rid themselves of the British. These included elections not only for the head of state but for governors, mayors and other political figures. A time limit of four years was placed on the President. Political power was separated between the central (federal) government and the states that made up the union. Legislative power was completely removed from the ruler and enshrined within an elected representative house called Congress.

These measures have no doubt prevented dictators such as those found in the Muslim world emerging in America and the west as a whole. But does that mean as some writers have inferred that democracy is the only system with effective accountability? Abdulwahab El-Affendi in his book 'Who needs an Islamic State?' states:

By positing an in-built tendency in governments towards tyranny, it was possible to devise governments which would not allow rulers enough freedom to turn into tyrants, a quite successful arrangement. Thus, although former US president Richard Nixon may have had the potential to be as tyrannical as Joseph Stalin, he was prevented from achieving this by a system which restricted his despotic tendencies.

A major flaw, therefore, in the traditional Muslim perception of the Righteous Caliphate was the erroneous belief that the rules of government must be designed to fit rulers who were almost saints – saints do not need the rules anyway.<sup>3</sup>



Islam and its systems were revealed for human beings not angels or saints as El-Affendi claims, and to err is human.

Allah says:

وَإِذْ قَالَ رَبُّكَ لِلْمَلَائِكَةِ إِنِّي جَاعِلٌ فِي الْأَرْضِ خَلِيفَةً ۖ قَالُوا أَتَجْعَلُ فِيهَا مَن يُفْسِدُ فِيهَا وَيَسْفِكُ الدِّمَاءَ وَنَحْنُ نُسَبِّحُ بِحَمْدِكَ وَنُقَدِّسُ لَكَ ۗ قَالَ إِنِّي أَعْلَمُ مَا لَا تَعْلَمُونَ

When your Lord said to the angels, 'I am putting a *khaleefah* on the earth,' they said, 'Why put on it one who will cause corruption on it and shed blood when we glorify You with praise and proclaim Your purity?' He said, 'I know what you do not know.'<sup>4</sup>

The suggestion that a Caliph must be a saintly figure or 'Philosopher King', to avoid him failing in to tyranny, fails to take in to account the numerous accountability mechanisms that exist within the Caliphate system to reign in the ruling powers of the Caliph and his officials.

When studying Islamic history many Orientalists have missed the accountability mechanisms that existed during the Caliphate such as the role of the scholars in the legislative and judicial branches of the state as discussed by Noah Feldman in his book, 'The Fall and Rise of the Islamic State'. The Orientalists instead focussed on specific incidents of injustice committed by some of the Caliphs. Generalising specific incidents to malign entire periods of history is a common theme among Orientalists who seek to distance Muslims away from their history and culture. We see something similar today with the media who use specific crimes committed by a Muslim to malign the entire ummah.

The Islamic ruling system is unique although there are elements which are found in other governing systems. The three branches of government - executive, legislative and judicial exist in every ruling system but differ in their degree of separation. In the democratic republican system there is strict institutional separation between the three branches. In the Caliphate, all ruling powers in origin are with the Caliph who has the power to appoint and dismiss judges and also the power to adopt laws for the state. This can give a misleading picture that the executive, legislative and judicial powers are with the Caliph so the judges are not free to make politically independent judgements and the Caliph can implement any law he wishes. This is not correct, and the Caliph is restrained through effective counterbalances which prevent him falling in to tyranny. The rest of the book will discuss that even in the Caliphate there is a degree of separation between the three branches which does provide effective accountability.

## 2 AUTHORITY TO RULE

### Ruling Contracts

The relationship between the ruler and the ruled and their corresponding rights was discussed by thinkers such as Rousseau during the enlightenment period. Rousseau developed the theory of a social contract which underpins modern western societies. While Islam views the relationship between the ruler and the ruled as a contract this bears no resemblance to the social contract theory.

There are three ruling contracts in the Caliphate. These are:

1. *Bay'a* – contract between the Muslims and the Caliph
2. *Dhimmah* – contract between the non-Muslim citizens and the Caliph
3. *Mu'aahadah* (treaty) – contract between other states and the Caliph

### The *bay'a* (pledge of allegiance)

The second principle of the Islamic ruling system is that 'Authority belongs to the Ummah.'<sup>1</sup> The Caliph is not a king or dictator who imposes his authority on the people through coercion and force. The Caliph's authority to rule MUST be given willingly by the Muslims through the Islamic ruling contract known as *bay'a*.<sup>2</sup> Without this *bay'a* the Caliph cannot rule.

The *bay'a* contract is between two parties - the Caliph and the Muslims. The principle elements of the *bay'a* are that the Caliph fulfils the seven mandatory conditions of his post and implements *shari'a* upon the citizens of the state.<sup>1</sup>

The seven mandatory conditions of the Caliph's post are listed below.<sup>2</sup> Violation of any of these will result in the impeachment of the Caliph and his removal from office unless the violation can be rectified.<sup>3</sup>

1. Muslim
2. Male
3. Mature
4. Sane
5. Just ('*adl*)
6. Free
7. Capable to rule

As an example, if it was proven that the Caliph drinks alcohol and womanises, this would make the Caliph a *fasiq* and would contradict the condition of him being just (*'adl*). Likewise committing oppression against citizens of the state would contradict this condition.

An example of this is the Umayyad Caliph Al-Walid bin Yazid bin Abdul-Malik (743-744) who was known for being corrupt and his public display of sins. He was removed from office by members of the ruling Umayyad dynasty who ordered his killing.

These conditions of the Caliph can be summarised as strength of ideology and capability to rule.

The Muslims must also fulfil their side of the *bay'a* contract which is to obey the Caliph openly giving him the clasp of their hands and secretly by the fruit of their hearts.

The Prophet Muhammad ﷺ said: **"Whosoever gave a *Bay'a* to an Imam, giving him the clasp of his hand, and the fruit of his heart shall obey him as long as he can, and if another comes to dispute with him, you must strike the neck of that man."**<sup>4</sup>

### Why only a Muslim Caliph?

A question may be raised over the Caliph being Muslim and why non-Muslims citizens have no part in the *bay'a*. The Caliphate is an ideological Islamic State where the Islamic *aqeeda* (belief) is the basis of the state, its institutions, systems and societal relationships. There is no separation between religion and politics in Islam as we find in the west. The Caliphate's strength will depend directly on the strength of the ideology within the state. This means those in ruling positions must be of those who will work in protecting, implementing and propagating the Islamic ideology so the state remains strong and becomes a leading nation in the world.

This means those in ruling positions must be Muslim. This is because the *shari'a* (Islamic law) has restricted ruling positions to those who believe in the ideology of the state i.e. Islam. This is no different to any ideological state within the world today. America or Western Europe for example would never accept a Muslim or Communist as President or Prime Minister. The fact that former US President Barack Obama had to repeatedly deny he is a secret Muslim is clear evidence of this.

Muhammad Asad in his book writes on this point.

One cannot escape the fact that no non-Muslim citizen – however great his personal integrity and his loyalty to the state – could, on psychological grounds, ever be supposed to work wholeheartedly for the ideological objectives of Islam; nor, in fairness, could such a demand be made of him. On the other hand, no ideological organization (whether based

on religious or other doctrines) can afford to entrust the direction of its affairs to persons not professing its ideology. Is it, for instance, conceivable that a non-Communist could be given a political key position – not to speak of supreme leadership of the state – in Soviet Russia? Obviously not, and logically so: for as long as communism supplies the ideological basis of the state, only persons who identify themselves unreservedly with its aims can be relied upon to translate those aims into terms of administrative policy.<sup>5</sup>

With regards non-Muslim citizens not being part of the *bay'a* this is because they are governed by a separate ruling contract called *dhimma* which is discussed in other literature.

### Capability to rule

Secular democracy emanates from the belief that religion should be kept separate from politics. The ruler in a democratic system is therefore not restrained from tyranny by fearing God or divine accountability. With this fundamental aspect of accountability missing i.e. consciousness of God (*taqwa*) the ruler in a democratic system is prone to tyranny if he isn't restrained by the mechanisms of government.

The Caliph is not a saint but a human being who is prone to mistakes. This is why such detailed accountability mechanisms exist within the Caliphate. Although the Caliph is not a saint he must be Muslim and just and cannot be a transgressor.

Capability in carrying out the task of ruling is an explicit *shar'i* (legal) condition for the Caliph, Assistants (*mu'awinoon*), governors (*walī*) and mayors (*'amil*) to ensure they fulfil the responsibilities of office.

This ruling capability is manifested in certain traits that will enable the person to fulfil the responsibilities of office and manage the affairs of state. These traits are strength of personality, consciousness of Allah (*taqwa*), kindness and that he should not be one who causes aversion.<sup>6</sup>

#### A. STRENGTH OF PERSONALITY

The Prophet Muhammad ﷺ stipulated that the ruler must be strong and that the weak person is not suitable to become a ruler.

Abu Dharr said: I said: 'O Messenger of Allah, will you not appoint me as a governor/ruler?' He struck my shoulder with his hand then said: 'O Abu Dharr, you are weak and it is a trust (*amanah*). On the Day of Judgement it will be a disgrace and regret except for the one who took it by its right and fulfilled his duty in it.'<sup>7</sup>

The meaning of strength here is strength of personality i.e. intellectual and emotional strength. It is necessary that this intellect be the ruling intellect by which he understands matters and relationships, and that his emotional disposition (*nafsiyya*) is that of a ruler who understands he is a ruler so his inclinations are of a leader.

## B. CONSCIOUSNESS OF ALLAH

Since the personality trait of strength has within it the potential of domination there is an obvious need for the ruler to have an attribute which protects him from the evil of domination. It is therefore necessary that he has the attribute of *taqwa* within himself and in his taking care of the Ummah.

Sulayman bin Buraydah narrated from his father: **‘Whenever the Messenger of Allah ﷺ would appoint an Amir over an army or expedition, he would command him with taqwa with himself and to be good to those Muslims who are with him.’<sup>8</sup>**

The ruler, if he is conscious of Allah and fears Him, and accounts Him in his own soul secretly and openly, then this would prevent him from tyranny in the first instance.

## C. KINDNESS

*Taqwa* alone would not prevent the Caliph from harshness and severity since in his taking account of Allah he would restrict himself to His commands and prohibitions. And since he is a ruler, it is natural in his position to be severe and hard, and because of this the Legislator (*Ash-Shari*) commanded him to be friendly and not to be hostile to the citizens.

Aisha said: I heard the Messenger of Allah ﷺ saying in his house of mine: **‘O Allah, whoever is appeared over any matter of my Ummah and is severe/hostile to them, then be severe/hostile to him! And whoever is appointed over any matter of my Ummah and is friendly to them, then be friendly to him!’<sup>9</sup>**

## D. DOESN’T CAUSE AVERSION

He also commanded to be one who gives glad tidings not one who repels or turns people away.

From Abu Musa who said: When the Prophet Muhammad ﷺ sent one of his companions in some of his affairs, he would say to him: **‘Give glad tidings and do not repel people, be easy and do not be hard (to the people).’<sup>10</sup>**

These traits were not restricted only to the Rightly Guided Caliphs but were embodied by many later Caliphs including the 20<sup>th</sup> century ruler Abdul-Hamid II. This is not a flaw of the Caliphate as El-Affendi claims<sup>11</sup> but one of its strengths. Before any of the state accountability mechanisms take effect the Caliph is restrained by his Islamic belief and *taqwa*. This is illustrated in the following examples of Caliph's that are not part of the Rightly Guided Caliph's.

Once Caliph Mu'awiya said in a *khutba* (sermon):

Umar appointed me over Syria and then 'Uthman did so after him. By Allah, I never swindled nor monopolised. Then Allah appointed me to command, and I did well sometimes and badly sometimes." Then a man stood up and said, "O Mu'awiya! Rather you monopolised and were bad and neither good or just!" He said to the man, "Sit down. Why are you speaking?" They went on to exchange words with each other until Mu'awiya said, "Sit down or I will make you sit down." At which the man exclaimed, "I will not sit down! I will go as far from you as possible!" He made to leave and Mu'awiya said, "Bring him back." They brought him back and Mu'awiya said, "I ask Allah's forgiveness. I saw you when you came to the Messenger of Allah ﷺ and greeted him and he returned the greeting to you and you were guided to him and he accepted it from you. You became a good Muslim. We have spoken harshly to you. Tell us what you need and I will give it to you and you will be pleased."<sup>12</sup>

In 1901, Dr Theodore Hertzil, founder of the Zionist movement visited Istanbul and tried to meet with Caliph Abdul-Hamid II. Abdul-Hamid refused to meet him and told his Head of the Ministers Council:

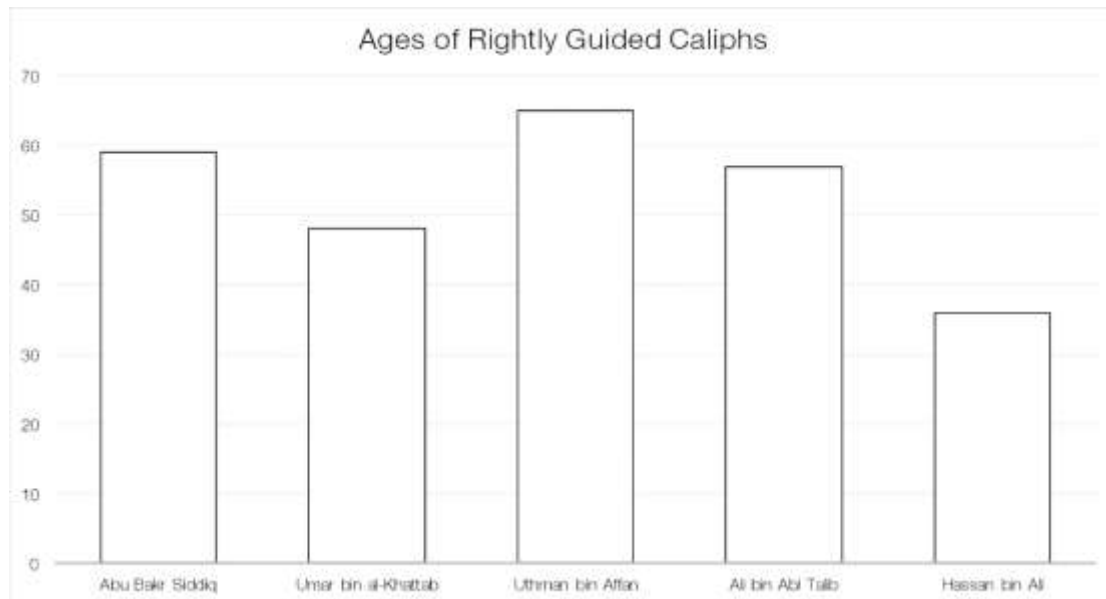
Advise Dr Hertzil not to take any further steps in this project. I cannot give away a handful of the soil of this land for it is not my own, it is for all the Islamic Ummah. The Islamic Ummah that fought Jihad for the sake of this land and they have watered it with their blood.<sup>13</sup>

### Is there a minimum age limit for the Caliph?

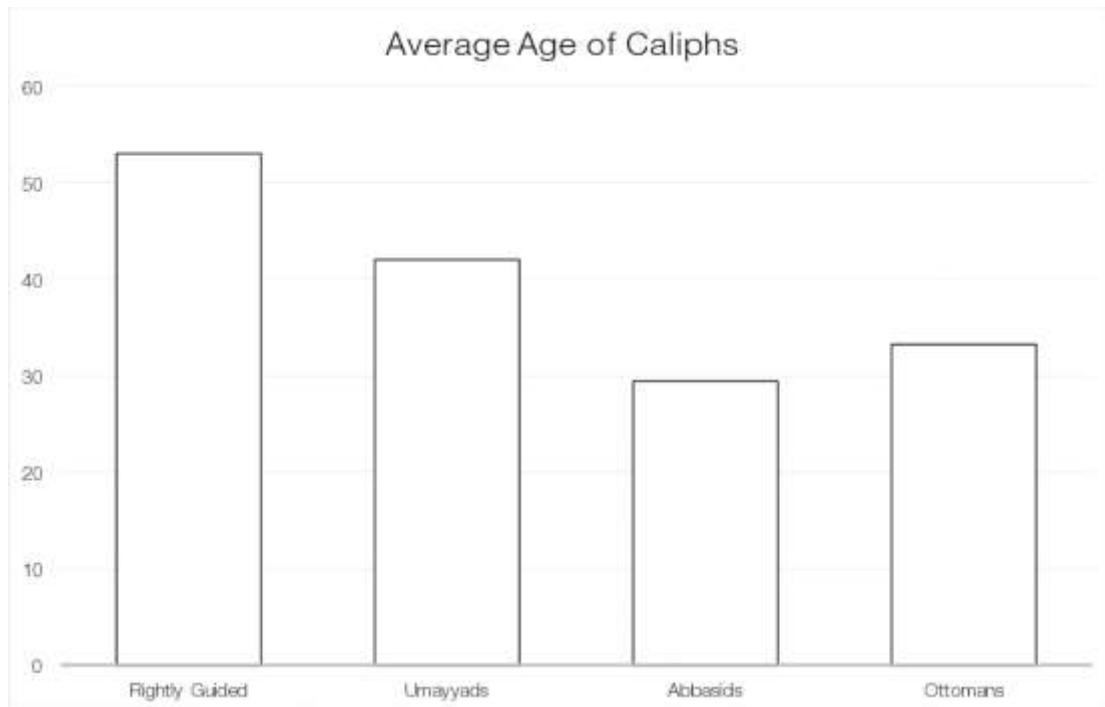
The US constitution places a minimum age of 35 for the President. Even without this limit it is highly unlikely anyone below this age could assume the post since their political experience would be insufficient to win the trust of political parties and financial backers.

Islam does specify any particular age for the Caliph except that of maturity i.e. they have reached the age of puberty. This however does not mean there will be teenage Caliphs in a future Caliphate as happened in certain eras of Islamic history. In addition to maturity another contractual condition is capability to rule. Achieving a ruling mentality in which the Caliph can fulfil the heavy burden of governing cannot be achieved at such a young age.

During the Rightly Guided Caliphate all the Caliphs were selected freely by those who represented the opinion of the Muslims. They were given the *bay'a* on the basis of meritocracy and each of them had huge political experience. Abu Bakr, Umar, Uthman and Ali had all held the position of Wazir (Assistant Caliph) which is the highest government position after the Caliph. When we look to their ages we see they were all elder statesman (excluding Hasan who became Caliph during the civil war).



If we compare this to when the *bay'a* was misapplied and became confined to ruling dynasties as happened after Muawiyah we find a stark contrast in the ages of the Caliphs. This is a characteristic of hereditary rule where the ruler is chosen not on meritocracy but by position in the family. This is why we find instances of very young Caliphs in certain periods of the Caliphate.



During the Abbasid Caliphate Al-Muqtadir who was only 13 at the time was given *bay'a* and became the Caliph in 908CE and ruled until 932CE. Since he didn't have the capability to rule he relied heavily on his *Wazirs* (Assistant Caliphs) of which there were thirteen. The Wazir is the most powerful government position after the Caliph and has similar powers to the Caliph in the task he is assigned. Too many Wazirs can lead to power struggles and infighting which will destabilise and weaken the government. It's no coincidence that in 909 the Fatimids in Egypt declared independence from Al-Muqtadir in Baghdad and appointed their own Caliph (not legitimate) in Cairo. In 929 still under the reign of Al-Muqtadir, Abdur-Rahman III declared himself as Caliph (not legitimate) and Al-Andalus also became independent from the Caliphate.

In a future Caliphate, there will be constitutional processes in place on how to elect the next Caliph which will prevent the *bay'a* being misapplied as it was previously. Therefore, the Caliph will likely be an elder statesman in their forties or fifties when they come to office. This is not to say we will specify a minimum age limit as the US constitution does where someone must be 35 years old before they can be President or Vice President of the United States. This cannot be done because the *shari'a* has only restricted the minimum age to puberty. However, as discussed the contractual condition of capability to rule will not be reached by a teenager.

### Is the caliph appointed by god?

Some may claim that the Caliphate is similar to the medieval Christian Kingdoms of Europe. The Christian Kings believed in the Divine Right of Kings, a belief that legitimate kings were appointed by God and so were answerable to God alone. King James I in 1609 said:



The state of monarchy is the supremest thing upon earth; for kings are not only God's lieutenants upon earth, and sit upon God's throne, but even by God himself they are called Gods.<sup>14</sup>

The King's decrees were therefore seen as divine. Opposition to such decrees would be considered blasphemy and punished. This is not the case in Islam.

The Caliphate is not a theocracy and the Caliph is not divinely appointed. He is a human being who will sin and make mistakes.

Accounting his actions or the laws he has adopted is not blasphemy but an obligation as long as it is performed within the framework of the Islamic ideology. For example, opposing a particular candidate for the post of Caliph at the time of election is fine, but opposing the entire Caliphate system and calling for its replacement with democracy is not acceptable. Opposing the imposition of *zakat* on women's jewellery due to stronger *shari'a* legal evidence is fine, but calling for the abolition of *zakat* entirely is not acceptable.

## Electing the Caliph

Since the time of the first Caliph of the Muslims - Abu Bakr Siddiq to the last - Abdul-Mejid II, every Caliph achieved his authority through the *bay'a*. The styles and means regarding the implementation of the *bay'a* differed and in some cases were misapplied, but nevertheless the *bay'a* process always remained in place.<sup>15</sup>

There are many *hadith* detailing this *bay'a* process.

Abi Hazim said: I accompanied Abu Hurayra five years and I heard him talk about the Prophet ﷺ saying: 'Children of Israel used to be governed by Prophets, every time a Prophet died, another came after him, and there is not Prophet after me. There will be Caliphs and they will number many'. They said: 'What would you order us to do?' He ﷺ said: 'Fulfill the *bay'a* to them one after the other, and give them their due right, surely Allah will account them for that which He entrusted them with.'<sup>16</sup>

In modern times the most appropriate style of conducting the *bay'a* is through a general election, where all mature Muslims, male and female have a right to vote for the Caliph of their choice.<sup>17</sup> The Muslim representatives of the *Majlis* will form an electoral college and shortlist the candidates for the Caliph firstly to six<sup>18</sup> and then to two before a final vote.<sup>19</sup> If a general election is not possible due to time and technological constraints then the *Majlis* will simply vote on the final candidate themselves.

This election process will be in the Caliphate's constitution and allow a Caliph to be chosen based on merit rather than family ties. Therefore, all Muslim male citizens regardless of school of thought have the potential to be Caliph if they are capable of fulfilling the contractual conditions. This will avoid the bloodshed and civil wars that afflicted the Caliphate during part of its history due to dynastical rule.

### Caliph's Term of office

In contrast to a democratic system, the term of office of the Caliph cannot be limited to a specific time period. As long as the Caliph is abiding by the *shari'a*, executing its laws and able to perform the duties of state, he remains in office. This is because the Islamic legal evidences concerning the *bay'a* came as indefinite (*mutlaq*) and not restricted to any specific period of time.

Anas b. Malik reported that the Prophet Muhammad ﷺ said: **'Do hear and Obey even if you were ruled by an Abyssinian slave whose hair is like the raisin.'**<sup>20</sup>

In another narration he ﷺ said: **'As long as he leads you by the Book of Allah.'**<sup>21</sup>

In addition, all the Rightly Guided Caliph's were given an indefinite *bay'a* which is the one mentioned in the *hadith*. They were not in office for a limited period. Each one of them assumed the post of Caliphate until he died, and this represents a general consensus (*ijma*) of the Companions (*sahaba*) confirming that the Caliphate does not have a limited term of office but is unrestricted. Therefore, if a Caliph is given a *bay'a* he remains in office until he dies, resigns or is removed due to violating the *bay'a* conditions by the Court of Unjust Acts (*Mahkamat Mazalim*).<sup>22</sup>

Without this restriction on the term of office, the Caliph can focus on long term strategic planning for the state instead of short-term planning from one election to the next as we find in democratic systems. It also prevents corporate interests from hijacking the government agenda through campaign contributions that any Presidential candidate or party in the west must secure to achieve power. The 2016 US presidential election cost a staggering \$6.8 billion!

Limiting the term of office for the leader is an essential element of accountability in democracy but not for the Caliphate. The Caliph can be investigated at any time by the institutions of state and can be removed from office at any time if he violates the *bay'a*. Since the Caliph is not a lawmaker or legislator he is unable to pass legislation that would drastically alter the shape of the state and the rights of Muslim and non-Muslim citizens. This makes the question of who rules less of an issue in the Caliphate as opposed to democracy where different political parties can

have dramatic events on people's lives. The terrorism legislation in the UK and its effect on Muslims and community relations is a good example of this.

### Binding the Caliph to specific conditions

The *bay'a* is a contract and as such it's allowed to add extra conditions that the Caliph must abide by, as long as these extra conditions do not violate the fundamentals of the contract. So it would be haram to impose a four-year time limit on the *bay'a* contract due to the discussion above.

Also in origin it is not allowed to add a condition to the *bay'a* that obliges the Caliph to adopt a certain opinion which becomes law because this contradicts the first executive mandatory power that adoption is for the Caliph only (see chapter 4). However, a condition can be added to the *bay'a* that obliges the Caliph to adopt a certain opinion if the unity of the Muslims requires this. This is because of the principle in *usul ul-fiqh* (foundations of Islamic law) that a *mujtahid* (scholar) can leave his *ijtihad* and adopt another opinion if it is intended to unify the Muslims for their own good.<sup>23</sup>

The evidence for this is derived from the third Rightly Guided Caliph Uthman bin Affan's *Bay'a* where he accepted to proceed according to the way of his two predecessors Abu Bakr and 'Umar in ruling. This is a consensus of the companions (*ijma as-sahaba*) which is a source of *shari'a*, as it happened in the presence of the companions without any objection from them. A detailed account of Uthman's *bay'a* follows to illustrate this point.

Then Abdul-Rahman sought the opinion of the prominent figures in Medina, and asked all the Muslims in Medina one by one, men and women. He left no one without asking him about whom, he or she, would like to be the Caliph from amongst that group. A group of them chose Uthman and another group chose Ali. Abdul-Rahman found that opinion was split between Uthman and Ali, and that the Qurayshis sided with Uthman.

Once Abdul-Rahman completed his fact-finding mission and consulted all the people, men and women, he summoned the Muslims to the mosque and went up the podium (*minbar*) with his sword on and his "Amama" (head-dress) which the Messenger of Allah ﷺ gave him: He stood for a long while then spoke:

**'O people! I have asked you openly and secretly about your Imam, and I found that you cannot place anyone on the same level as these two men: Ali and Uthman.'** Then he turned to Ali and said to him. **'Come to me O Ali!'** Ali stood and walked to the *minbar* until he came underneath it. Abdul-Rahman took his hand and said: **'Would you give me your bay'a according to the Book of Allah and the Sunnah of His Messenger and the (actions) of Abu Bakr and Umar?'**

Ali replied: **'By Allah no, but on my own exertion of that and my knowledge'** – (i.e. I would give you my *bay'a* according to the Book of Allah and the Sunnah of His Messenger according to my own exertion of that and my knowledge of them.) **'As for the actions of Abu Bakr and Umar, I do not adhere myself to them but exert my own opinion.'**

Abdul-Rahman then released his hand and called: **'Come to me O Uthman!'** He took his hand as he stood on the spot where Ali stood earlier and said to him: **'Would you give me your *bay'a* according to the Book of Allah and the Sunnah of His Messenger as well as the actions of Abu Bakr and Umar?'** Uthman replied, **'By Allah yes.'** Upon this Abdul-Rahman looked up to the roof of the mosque with his hand clutching that of Uthman and said: **'O Allah! Hear and witness; O Allah, I have put what was in my neck of that (matter) in the neck of Uthman.'**

Then people rushed to give their *bay'a* to Uthman until they overwhelmed him. Then Ali came pushing his way through to reach Uthman and gave him his *bay'a*. The *bay'a* was therefore concluded to Uthman.<sup>24</sup>

It is therefore permitted to restrict the Caliph to certain constitutional processes such as the empowerment of the House of Representatives (*Majlis ul-Ummah*) and the judiciary as counterbalances to his executive power, if unity of the ummah demanded this.

### 3 WHO WILL BE THE CALIPH?

#### Selection of Rulers during the Umayyad and Abbasid Caliphate

After the period of the Rightly Guided Caliphs the rulers in the Caliphate were on the whole selected based on family ties where the Caliph would choose the next Caliph from his family. This led to the creation of ruling dynasties in the form of the Umayyads, Abbasids and later the Ottomans. The executive branch of the Caliphate started to resemble a monarchy, a period to which the Prophet Muhammad ﷺ referred to in the hadith narrated by Ahmed as a 'biting kingship'.<sup>1</sup>

Despite the misapplication of appointing rulers in the executive branch, the Islamic State was still a Caliphate, with the legislative and judicial branches held by the *ulama* (scholarly) class who ensured the *shari'a* was always implemented by the executive. Conflict between the *ulama* and executive always existed and ensured the independence of the judicial and legislative branches of government. This conflict came to a head during the inquisition (*mihna*) of Abbasid Caliph al-Ma'mun where Ahmed bin Hanbal refused to concede the Islamic position that the Qur'an was not created in favour of al-Ma'mun's view that the Qur'an was created. Abu Hanifa, Imam Shafi'i, Imam Malik, Imam Nawawi and Ibn Taymiyyah all faced persecution during their times for accounting the rulers and ensuring *shari'a* was always implemented by the executive. One of the benefits cited for a monarchy is the clear line of succession for future rulers of the Kingdom. Historically, this was seen as providing a stable system that prevents a power vacuum after the King dies. When Mu'awiyah was Caliph he was the first to introduce the concept of hereditary *bay'a* where the Caliph would nominate his son or other close relative to succeed him. In Mu'awiyah's case he nominated his son Yazeed and took *bay'a* for him before he died.

Ibn Khaldun states:

What prompted Mu'aawiyah to give precedence to his son Yazeed and appoint him as caliph, rather than anyone else, was the belief that this would serve the interests of the Muslims by uniting them and bringing them together behind one man, with the approval of the decision-makers at that time, who were from Banu Umayyah, because at that time Banu Umayyah would not accept anyone (as caliph) except one of their own number. They were the strongest clan of Quraysh and the ones who had the greatest influence. So Mu'aawiyah preferred Yazeed, over others who may have been thought more qualified than him, for that reason, and he overlooked others who were more virtuous in favour of one who was less virtuous, because he was keen to keep the Muslims united behind one leader, which is a matter of great importance in Islamic teachings.<sup>2</sup>

Regardless of the perceived benefit in having a clear line of succession as in a monarchy, Muslims are restricted by the *shari'a* rules. This deviation from the *shari'a* rules in misapplying the *bay'a* resulted in severe weaknesses creeping in to the political structures of the state and in fact the hereditary *bay'a* made the Caliphate less stable.

This weakness and instability occurred because restricting the post of Caliph to an elite few prevented any other aspiring candidates from reaching a ruling position. Political parties within the state were then forced to rebel and seize power militarily since no other mechanism was available to them for achieving power.

This is what the Abbasids did by seizing Persia and Iraq and using them as a platform to capture total power away from the Umayyads whom they then slaughtered at the battle of Zab. They then followed in the footsteps of the Umayyads restricting the authority to the family of Banu Abbas in place of Banu Umayyah.

Later the Fatimids took over the province of Egypt and established a state there. They tried to use this as a support point for transferring the rule of the Islamic State to the sons of Fatimah, daughter of the Prophet Muhammad ﷺ. Their action caused instability within the Islamic State and stalled the Jihad allowing the crusaders to occupy the holy lands.

### **Selection of rulers by the Prophet ﷺ and the Rightly Guided Caliphs**

A future Caliphate will not follow in the footsteps of the Umayyad and Abbasid Caliphate's by selecting rulers based on tribal and family ties. The model for ruling is taken from the sunnah and the ways of the Rightly Guided Caliphs (*Khulafa Rashida*).

On the authority of Abu Najih Al-Erbadh bin Sariah, who said: The Messenger of Allah ﷺ gave us a sermon by which our hearts were filled with fear and tears came to our eyes. We said: 'O Messenger of Allah, it is as though this is a farewell sermon, so counsel us.' He ﷺ said: 'I counsel you to fear Allah and to give absolute obedience even if a slave becomes your leader. Verily he among you who lives [long] will see great controversy, so you must keep to my sunnah and to the sunnah of the rightly-guided Caliphs - cling to them stubbornly. Beware of newly invented matters, for every invented matter is an innovation and every innovation is a going astray, and every going astray is in Hell-fire.'<sup>3</sup>

If we look back to the first Islamic State in Medina and the states of the Rightly Guided Caliphs we find those appointed to positions of authority were those who were strong in the Islamic ideology, and had the capability to rule i.e. they had a ruling mentality.

Those Muslims who before Islam were tribal leaders or from the ruling class already had this ruling mentality looking after the affairs of their tribe. An example is Mu'awiya, the sixth Caliph who before the conquest of Makkah was the crown prince primed for ruling Makkah after his father Abu Sufyan. Mu'awiya was appointed by Umar bin al-Khattab as governor of Syria and remained in office until he took over the Caliphate from Imam Hasan.

**The Prophet Muhammad ﷺ said, 'You will find people to be like mines. The best of them in the Jahillyya (days of Ignorance) are the best of them in Islam when they have understanding.'**<sup>4</sup>

The Prophet ﷺ also cultured the personalities of the *sahaba* and appointed them to positions of authority which developed their political experience. This political experience nurtured their ruling mentality and resulted in the *sahaba* becoming the future rulers once he ﷺ had passed away. The *sahaba* were also the guarantors of the continued implementation of Islam even if they were not in government.

We can see this from the Rightly Guided Caliphs who were all Assistant Caliphs (*wazirs*) at some point before becoming the Caliph. Abu Bakr and Umar were the wazirs for the Prophet Muhammad ﷺ. Umar was also the wazir when Abu Bakr was Caliph. Uthman and Ali were the wazirs when Umar was Caliph. Ali and Marwan ibn al-Hakam were the wazirs when Uthman was Caliph.

In addition to holding the posts of *wazir* the Rightly Guided Caliphs held other positions within the state. Abu Bakr, Umar and Ali were chosen by the Prophet ﷺ to be the people of *shura* (consultation) and effectively formed part of the Shura Council in Medina.

**'The Messenger of Allah ﷺ sent 'Umar as responsible for sadaqah (charity funds).'**<sup>5</sup>

**'When the Messenger of Allah ﷺ returned back from the umrah of Ji'ranah, he sent Abu Bakr responsible for hajj.'**<sup>6</sup>

The Prophet Muhammad ﷺ appointed 'Uthman Ibn 'Affan as an ambassador to Quraysh during the Hdaybiyah Treaty affair.

The Prophet Muhammad ﷺ appointed 'Ali ibn Abi Talib as a judge over Yemen, as secretary of agreements and peace treaties and commander of the Muslim army at different periods during his ﷺ rule in Medina.

Caliph Umar ibn al-Khattab was very strict in ensuring he didn't resemble a King and that family ties would have no place in ruling. One day 'Umar ibn al-Khattab said, **'By Allah, I do not know whether I am a Caliph or a king, for if I am a king then this is a tremendous matter!'**<sup>7</sup>

When Umar was dying the Muslims came to him and requested him to assign a Caliph after him.

One of the Muslims said to him: **'Recommend your son 'Abdullah.'** Umar said: **'May Allah fight you, by Allah you did not seek Allah's pleasure by this opinion. Woe to you! How can I recommend a man who was unable to divorce his wife? There is no desire for us (family of Al-Khattab) in your affairs. I did not praise it (Caliphate) so as to like it to be for anyone from my family. If this matter (of Caliphate) was good then we have got our share. If it was bad then it is enough for family of 'Umar that one person from them be accounted and be asked about the affairs of the Ummah of Muhammad. Really, I exerted myself and I deprived my family. If I managed to save myself sufficiently without sin and without reward, then I am happy.'**<sup>8</sup>

### Selection of rulers in the future Caliphate

A ruling mentality is something generic that may be exhibited in both Muslim and non-Muslim rulers and is developed through political experience whether this is gained in government or not. As an example, America is a capitalist ideological state. Its rulers would therefore be from people who are strong in the Capitalist ideology which primarily means links to large corporations. For example, Dick Cheney, the former Vice-President was chairman of Halliburton and Michael Bloomberg, the former New York Mayor is the eighth richest in America. The bulk of election campaign funding is received from major corporations in all government elections whether they are Presidential, Mayoral or Congress elections.

US Presidents are selected from those with former political experience such as governors, Senators, Vice-Presidents or military generals. George Washington was a former Military General, George Bush Junior was a former governor of Texas and Barack Obama a former Senator.

Obama was in fact attacked during his election campaign for not having enough political experience since he was only a Senator for three years, compared to John McCain's long running political and military career. Obama used his grass-roots political work as a community organizer in Chicago as evidence of his political experience for the post of President. Similarly, a future Caliphate will choose rulers based on their ruling capability and strength of ideology as discussed previously. They will be those with a ruling mentality and political experience who have the skills to manage the affairs of state.



In practice, this means the Caliph will be drawn from the pool of existing government posts. The Caliph may be a former governor, *Ameer* of Jihad, Assistant Caliph or Treasury Secretary with a wealth of political experience and well known to the ummah. As we saw with the Rightly Guided Caliphs it's likely the Caliph will always have served as a former Assistant Caliph.

For the other government posts the Caliph is free to choose whoever fulfils the contractual conditions of that post and is able to perform the task at hand. These posts may be filled by former university professors, military generals, newspaper editors, heads of political parties, tribal leaders, imams, members of the Regional Assemblies and members of the House of Representatives (*Majlis ul-Ummah*).

In practice, the majority of government posts will be drawn from the *Majlis* since this is where the majority of politicians and statesman will be in the Caliphate.

### The path to power

As mentioned above closing off ruling positions to an elite few is not permitted in *shari'a* and can cause huge problems to the Caliphate's future stability. Therefore, there needs to be a clear path to government and even the post of Caliph for any of the state's citizens with such aspirations. This will be done primarily through allowing the formation of numerous Islamic political parties, establishment of Regional Assemblies in each province and the empowerment of a central *Majlis* in the Caliphate's capital in the heart of government.

The scenario below attempts to illustrate this path.

Abdullah joins an Islamic political party in his youth. He is an activist of the party through his schooling and university. After completing university, he pursues a full-time career as an army officer in the Caliphate's army. He rises up the ranks and then decides on pursuing a full time political career. His political party put him forward as a candidate for the 5-yearly Regional Assembly elections. He campaigns and wins his seat. He then becomes a member of the Regional Assembly and makes a strong impression on his constituency and the Assembly.

In the elections for his second term he gains enough votes for a seat on the House of Representatives (*Majlis*) in the Caliphate's capital. His work on some of the *Majlis* committees impresses the Assistants (*Mu'awinoon*) who recommend his appointment to a government position. He works his way through various government posts finally becoming Foreign Affairs Secretary which is a senior departmental position. From there he becomes an Assistant Caliph and when the Caliph unexpectedly dies he is shortlisted by the *Majlis* for candidacy to the post of Caliph. His previous political and military experience wins over the Ummah who believe he can successfully manage their affairs.

and be the commander in chief of the armed forces. He gains the majority of votes during the election and becomes the Caliph.

## 4 EXECUTIVE BRANCH

### Executive powers of the Caliph

The executive branch of government is responsible for the day-to-day management of the state. Islam does not believe in collective ruling where the executive powers are shared among a cabinet of ministers. In parliamentary democracy the Prime Minister is 'first among equals', having limited powers of interference in his cabinet minister's departments. Sharing executive power among government ministers with separate portfolios (departments) leads to immense bureaucracy and lengthy delays in resolutions to problems. It also leads to political infighting and rivalry between government departments. Normally the head of the treasury emerges as the second most powerful minister since he must approve the budgets for all other departments which he can use to wield political influence. Tony Blair and Gordon Brown's fractious relationship in the UK is an example of this.

In the Caliphate all executive powers are held with the Caliph. Although he will appoint Assistant Caliphs (*Mu'awin ut-Tafweed*) to manage various areas of the state, these Assistants are not independent but rather under the supervision and responsibility of the Caliph.<sup>1</sup>

The executive powers of the Caliph are listed below.<sup>2</sup>

1. He is the one who adopts the *shari'a* rules derived by a correct *ijtihad* from the Book of Allah and the Sunnah of his messenger necessary for managing the affairs of the Ummah since when he adopts them they are enacted, at which point they become laws (*qawanin*) which are obligatory to obey, and it is not permitted to oppose them.
2. He is responsible for governing the domestic and foreign affairs of the State, and he takes command of the leadership of the Army; he has the right to announce war, to sign peace treaties, truces and all other types of agreements.
3. He is the one who can accept or refuse to meet foreign ambassadors, and appoint and remove the Muslims ambassadors.
4. He is the one who appoints and removes the assistants and governors. They are all responsible to him as they are responsible to the *Majlis*.
5. He is the one who appoints and removes the Chief Justice (*Qadhi-Qudhat*) as well as the other judges excluding the judge of *Mazalim* Court, where he appoints him, but he is restricted regarding his dismissal as is explained in the chapter on judiciary. He also

appoints the managers of the administration departments, army commanders, chiefs of staff, and the commanders in chief; they are all answerable to him and not to the *Majlis ul-Ummah*.

6. He is the one who adopts the *shari'a* laws which are drafted according to the budget of the State, and decides the sections of the budget and the amount given to each aspect, irrespective to whether it was related to revenue or expenditure.

### The Caliph is not above the law

Islam firmly believes in the rule of law. No one in the Caliphate including the Caliph himself is above the law or has immunity from prosecution. Benefit and harm are not excuses the Caliphate can use to violate this principle as we find western democratic states doing. America's suspension of all legal and international norms for suspects held in Guantanamo Bay is a prime example of this. US President Bush defended the CIA's rendition programme and torture of terror suspects as an extraordinary measure justified by the extraordinary circumstances of the fight against terrorism.<sup>3</sup> British Prime Minister Tony Blair after the 7/7 bombings in London said, 'Let no-one be in any doubt, the rules of the game are changing.'<sup>4</sup>

The Prophet ﷺ firmly established this principle of rule of law in the following hadith.

Narrated 'Aisha: The people of Quraish worried about the lady from Bani Makhzum who had committed theft. They asked, **'Who will intercede for her with Allah's Messenger?'** Some said, **'No one dare to do so except Usama bin Zaid the beloved one to Allah's Messenger.'** When Usama spoke about that to Allah's Messenger he ﷺ said: **'Do you try to intercede for somebody in a case connected with Allah's Prescribed Punishments?'** Then he got up and delivered a sermon saying, **'What destroyed the nations preceding you, was that if a noble amongst them stole, they would forgive him, and if a poor person amongst them stole, they would inflict Allah's Legal punishment on him. By Allah, if Fatima, the daughter of Muhammad stole, I would cut off her hand.'**<sup>5</sup>

For example, former Pakistan President Asif Zardari managed to escape justice while in office through his immunity which could never occur in a Caliphate.

### Assistant Caliphs

While the executive power is not shared among a cabinet of ministers the Caliph cannot run the state on his own. He therefore needs to appoint assistants to aid him in ruling. The Assistant Caliphs or Delegated Assistants (*Muawin ut-Tafweed*) perform this task. Historically this post was

called Wazir. They are not assigned permanently to one department but oversee multiple departments or provinces depending on how the Caliph wishes to structure his government. The Assistant Caliphs have the same powers as the Caliph in the context of assistants and their post has the same conditions as the Caliph.

### Deputy Caliph

One of the Assistant Caliphs (*Muawin ut-Tafweed*) will be appointed as a deputy who acts as a provisional leader (*amir*) when the Caliph is incapacitated for some reason. If the Caliph is ill and undergoes surgery, then the Deputy Caliph will take charge on a temporary basis. The Deputy Caliph also acts as the interim leader during the elections when the Caliph dies or is no longer in office. Historically during the Ottoman period this post was called Grand Vizier.

### Cabinet Secretaries

The Office of the Caliph will contain Cabinet Secretaries or Executive Assistants (*Muawin ut-tandidh*). Historically this post was called a *kaatib*. These secretaries are senior civil servants with many years of experience and are the most trusted in the service. They are intermediaries between the Caliph and the various institutions of state. Unlike the Assistant Caliphs their powers are limited to executing tasks only and they cannot formulate policy or appoint and dismiss officials.

### Department Heads

The department heads in the Caliphate are administrative only and not headed directly by an Assistant Caliph. They are not called Ministers or Secretaries of State but rather Director-Generals (*mudeer*) indicating their administrative nature. These department heads will be overseen by the Caliph and his Assistants.

### Removal of the Caliph and Assistants

The Assistants are accountable not only to the Caliph but also the *Majlis*. They can be removed if the *Majlis* passes a vote of no-confidence in them. This applies also to the provincial governors and mayors.

The Caliph is the state and is the pillar keeping stability. His removal has huge political and economic implications to the society. Therefore, his impeachment cannot be performed by the *Majlis* but by the Supreme Court which is the Court of Unjust Acts (*Mazalim*). That is the only institution within the state that has the power to remove the Caliph. The Caliph has no power to remove any judge which is investigating him. His removal must be because he contradicted one

or more of the seven contractual conditions mentioned earlier leading to the *bay'a* contract either becoming void (*batil*) or defective (*fasid*). If the *bay'a* contract is still valid then no impeachment will take place and the Caliph will remain in office.

The Prophet Muhammad ﷺ gave Uthman bin Affan a prophecy. That he would be given a cloak and when the people come to take it off he shouldn't. Uthman was the third Caliph and in the last few months of his successful 12 years rule faced a rebellion who wanted him removed from office for malicious reasons. The *bay'a* contract remained valid and the reasons given for removing him were invalid. Unfortunately, the rebels assassinated Uthman when he refused to break the *bay'a* leading to years of civil war and unrest.

## 5 LEGISLATIVE BRANCH

### Legislation in the Caliphate

Unlike a King or dictator, the Caliph cannot legislate laws from his own mind that suit his personal or family interests. Although the Caliph holds all executive powers within the Caliphate his powers are restricted by the *shari'a*. Many orientalist acknowledged this separation of powers. C.A. Nallino said:

But these universal monarchs of Islam, just like all other Muslim sovereigns, while they possessed to an unlimited degree executive power and some judicial power, are entirely lacking in legislative power; because legislation properly so called can only be the divine law itself, the *shari'a*, of which the ulama, or doctors, are alone the interpreters.<sup>1</sup>

Thomas Arnold said:

The law being thus of divine origin demanded the obedience even of the Caliph himself, and theoretically at least the administration of the state was supposed to be brought into harmony with the dictates of the sacred law. It is true that by theory the Caliph could be a mujtahid, that is an authority on law, but the legal decisions of a mujtahid are limited to interpretation of the law in its application to such particular problems as may from time to time arise, and he is thus in no sense a creator of new legislation.<sup>2</sup>

### What is *shari'a*?

The linguistic meaning of the word *shari'a* is a non-exhaustive source of water from which people satisfy their thirst, which means the Islamic rules are effectively a source of guidance. Water is the foundation for life and the Islamic rules are an essential source for guiding this life.

Islam is not a religion like Christianity which, "*Renders unto Caesar the things that are Caesar's, and unto God the things that are God's*".<sup>3</sup> There is no separation between religion and politics in Islam. All spheres of life and society are governed by Allah's guidance in the form of *shari'a*.

*Shari'a* is composed of all the rules derived from the legislative sources of Islam. These rules are not just limited to areas covering beliefs and morals but rather the Islamic rules cover every action performed by an individual or a society. Allah says:

فَرَطْنَا فِي الْكِتَابِ مِنْ شَيْءٍ

Nothing have we omitted from the book<sup>4</sup>

When these *shari'a* rules are adopted by the Caliph for implementation in the state then they transfer from merely being rules to statutory laws.

### Types of statutory law in the Caliphate

A statute or law (*qanun*) is a technical term which means a law adopted by the government for enforcement upon the people. These statutes typically command or prohibit something or declare policy.

In the Caliphate there are three types of laws.

1. Legislative Laws
2. Technical Administrative Laws
3. Non-Technical Administrative Laws

All of these laws have their basis in *shari'a* but differ in their method of derivation and the accountability mechanisms applied to them.

### Legislative Laws

The first principle of the Islamic ruling system is that 'sovereignty is to *shari'a*.'<sup>1</sup> Allah says:

إِنِ الْحُكْمُ إِلَّا لِلَّهِ

The rule is to none but Allah.<sup>5</sup>

Legislation (*tashree*) in Islam is the divine rule (*Hukm Sharii*) and The Legislator (*Al-Shaari*) is Allah.

The Qur'an and Sunnah contain texts that address many topics such as the stories of previous nations, the Day of Judgment, heaven, hell and others. However, the texts which specifically address the actions of human beings are referred to as *Hukm Sharii*.

The scholars of *usul* (principles of *shari'a*) have defined *Hukm Sharii* as, 'the address of the Legislator (Allah) related to the actions of the servants.'<sup>6</sup>



وَمَا كَانَ لِلْمُؤْمِنِ وَلَا الْمُؤْمِنَةِ إِذَا قَضَى اللَّهُ وَرَسُولُهُ أَمْرًا أَنْ يَكُونَ لَهُمُ الْخِيَرَةُ مِنْ أَمْرِهِمْ وَمَنْ

يَعْصِ اللَّهَ وَرَسُولَهُ فَقَدْ ضَلَّ ضَلَالًا مُبِينًا

When Allah and His Messenger have decided something it is not for any man or woman of the believers to have a choice about it. Anyone who disobeys Allah and His Messenger is clearly misguided.<sup>7</sup>

#### How are Legislative Laws made?

One of the executive powers of the Caliph is that he has the right to adopt legislation for the Islamic state. Those with a weak understanding of *shari'a* and the legal processes involved may claim the Caliphate is similar to the medieval Christian Kingdoms of Europe. The Christian Kings believed in the Divine Right of Kings, a belief that legitimate kings were appointed by God and so were answerable to God alone. King, James I in 1609 said:

The state of monarchy is the supremest thing upon earth; for kings are not only God's lieutenants upon earth, and sit upon God's throne, but even by God himself they are called Gods.<sup>8</sup>

The King could therefore adopt any law he wished and his decrees were seen as divine. The Caliph cannot do this.

Legislative laws are not subject to the opinion of the majority as happens in democracy where legislation is made through majority voting. The mind is not a source of *shari'a*. The only acceptable sources of *shari'a* for legislation in the Caliphate are:

1. Qur'an
2. Sunnah
3. Consensus (*ijma*) of the Companions of the Prophet Muhammed ﷺ
4. Analogy (*qiyas*)<sup>9</sup>

Legislative laws are derived through a process called *ijtihad* not voting. Ijtihad is where an Islamic legal expert (mujtahid) expends maximum effort in deriving a divine rule from the four sources above. If the Caliph is a *mujtahid* (legal scholar) then he will undertake this process as happened during the time of the Rightly Guided Caliphs. If not, then he will refer to the *ulama* (scholars) for this function as occurred during the Abbasid and Ottoman Caliphate.

If the Caliph is not a *mujtahid* then he can appoint scholars who are experts in various fields of *shari'a* such as economy, ruling and social issues to legislate for the state. In this case the legislative branch would be considered institutionally independent. This was the case in the Ottoman Caliphate where the Shaikh ul-Islam was effectively the legislative branch of the state. C.H. Becker states:

The Shaikh-ul-Islam takes equal rank with the Grand Vizier and is his deputy. Though independent as interpreter of the law, he is in his position himself an official who may be dismissed. So in this way, so far as individual persons are concerned, the problem of State-control and non-interference in religion is settled.<sup>10</sup>

An argument against the Caliph is that he could 'pick and mix' rules from any of the four *shari'a* sources that benefit him. However, Islam didn't just define the sources of *shari'a* it also defined the intricate legal process to extract the laws known as *istinbat*.

The Caliphate is therefore forbidden from adopting any rule that is not correctly deduced from the four *shari'a* sources. Furthermore, the Caliph is also restricted to the rules he has adopted and to the method of deduction (*istanbat*) that he has chosen for deducing the rules.<sup>11</sup>

New legislative laws will be introduced by the Caliph and his Assistants (wazir) as bills and submitted to the *Majlis* and the *Mazalim* Court for scrutiny. The *Majlis* will consist of various technical committees one being the *shari'a* committee consisting of Muslim ulama. These bills will be discussed in this committee from the viewpoint of the strength of *shari'a* evidence not through voting. Majority opinion has no value when it comes to deriving legislative laws. The Caliph is not obliged to adopt the opinion of the *Majlis* in relation to legislative laws but if a difference arose it will be submitted to the *Mazalim* Court for resolution.

If the legislative bill conforms to *shari'a*, the Caliphate's adopted legal sources and method of deduction (*istinbat*), with no opposition from the *Mazalim* Court, then the Caliph will sign off the bill transferring it in to law.

### Technical Administrative Laws

The administrative laws make up the majority of laws in modern states today. In democracy these are written by the civil servants and presented by the department ministers. They are then presented as bills to the House which votes on them and the law is passed through the opinion of the majority. Since members of parliament or congress are not technocrats they sometimes establish public bill committees where technical advisors who are experts in that particular field assist them in scrutinising the bill.

It was reported in America that most lawmakers in the US Congress do not bother to read the legislation they are passing and neither do any of their officials or staff! Instead, more often than not, members of Congress rely on summaries prepared by the bill's authors or by special interest groups whose judgment they trust.

Republican Brian Baird, (D-Wash) writing in the Washington Post recently penned an Op-Ed titled '*We Need to Read the Bills.*'<sup>12</sup> The op-ed at first glance reads like something emanating from Michael Moore, yet it systematically and in a serious fashion highlights a notable gap between what most people think is a painstaking and deliberative legislative process in Congress and what actually happens. Baird's op-ed was in response to a particularly embarrassing episode, in which an anonymous individual inserted a provision into a large spending bill that was passed, allowing congressional staff to examine any individual American's income tax returns.

The Administrative Laws whether technical or non-technical are simply styles to perform a particular task or subsidiary actions of a legislative rule, and therefore do not require a specific *shari'a* evidence. This is because in origin the *shari'a* evidence includes all subsidiary actions or styles that branch out from it unless there the *shari'a* also specifies the subsidiary action which happens mostly in the case of *ibadat* (worships) but not in *mu'amilaat* (transactions) like ruling and economy.

For example the legislative law of zakat is a pillar of Islam derived from the Qur'an:

وَأْتُوا الزَّكَاةَ

And pay out the Zakat<sup>13</sup>

Since Zakaat falls under the category of *ibadat* (worships) it contains many subsidiary *shari'a* rules such as the level of wealth (*nisab*) which is needed before zakat is paid, the amount that is paid and is eligible to receive zakat. These are based on *shari'a* evidences so are not administrative or subject to changes in time and place. They are as applicable in the 21<sup>st</sup> century as they were when they were first revealed in the 7<sup>th</sup> century. However, there are other subsidiary actions which were not specified by the *shari'a* which do fall under the administrative laws such as how the Zakat is physically collected. So using computers to calculate zakat or asking Muslims to complete tax-returns to establish the amount of zakat to pay are all technical advancements which fall under administrative law. These administrative laws can even be adopted from western systems. This is what the second Caliph of Islam Umar bin Al-Khattab did when he adopted the diwan system for organising the treasury from the Persian Empire.

## How are Technical Administrative Laws made?

New Technical Administrative Laws will be introduced by the Caliph and his Assistants (wazir) as bills and submitted to the *Majlis* and the *Mazalim* Court for scrutiny. As mentioned before the *Majlis* will consist of various technical committees similar to the Public Bill Committees which will call upon experts in the field to offer advice. Majority opinion has no value when it comes to deriving technical Administrative laws as these are for the experts to offer their opinions. Presentation of these bills to the *Majlis* and *Mazalim* Court is simply a mechanism to ensure no violations of people's right or *shari'a* occur from the small print of a bill as happened in the American Congress spending bill where a clause was inserted allowing spying on the citizens which is prohibited in *shari'a*.

If no opposition is raised by the *Mazalim* Court regarding the Technical Administrative Bill, then the Caliph will sign off the bill transferring it in to law.

Noah Feldman highlights this:

In the classical Sunni constitutional balance, the shari'a existed alongside a body of administrative regulations that governed many matters in the realms of taxation and criminal law. The Ottoman Empire had long featured thousands of such regulations, called *kanun*, a word whose derivation from the Latin canon testified to its origins outside the shari'a.<sup>14</sup>

## Non-Technical Administrative laws

There is another subset of Administrative law which is the non-technical laws that are open to the opinion of the majority and not restricted to experts. The difference here is subtle because all opinions are based on some level of knowledge. However, the difference between the technical and non-technical opinions is the level of expertise and knowledge required before passing judgment. If an opinion can be reached through uncomplicated general knowledge open to the majority of ordinary people, then it would be classed as non-technical otherwise it's technical.

An example of this type of opinion is the election of the Caliph. Mawardi mentions in *Ahkam as-Sultaniyyah* regarding those eligible to make the choice of Imam (Caliph) that, *"they possess a knowledge by which they may comprehend who has a right to the Imamate and that they fulfil all the conditions implied by this knowledge."*<sup>15</sup> This type of knowledge and analysing who is the best choice for the state is within the capability of all sane, mature Muslim citizens. Elections for the head of state in western countries and the ensuing debates prove this point.

Another example would be prioritisation of public services. Do we build more hospitals and offer better medical care or do we instead build more schools and improve educational standards?

### How are Non-Technical Administrative Laws made?

New non-Technical Administrative Laws will be introduced by the Caliph and his Assistants (wazir) as bills and submitted to the *Majlis* for scrutiny. The entire House consisting of Muslims and non-Muslims will be the committee that discusses the bill. The bill is passed through majority voting and the Caliph will sign off the bill transferring it in to law.

### Case Study: Health Care

To further illustrate the differences between the three types of laws in the Caliphate let us look at Health Care which has caused much debate and controversy in America over its health reforms nicknamed 'Obamacare'.

The question of whether citizens should be given free health care like the British NHS or be forced to pay through medical insurance as happens in America, falls under the category of legislation. This is because the *shari'a* specifies that health care is one of the rights of the citizens. This is derived through ijtihad from the sunnah where the Prophet Muhammad ﷺ was given a doctor as a gift but he assigned him to all the Muslims. The fact that the Messenger of Allah ﷺ received a gift and did not use it, nor take it, rather he assigned it to the Muslims is evidence that healthcare is one of the interests of the people whether Muslim or non-Muslim.

The administrative aspects of managing a public health service and the most efficient methods of providing care would be referred to the medical experts and would fall under the Technical Administrative Law. The UK's Health and Social Care Act 2012 contains many of these types of laws.

Lastly, the decision on whether to improve hospitals and healthcare services at the expense of schools and transportation links, would fall under non-Technical Administrative Laws and be decided through majority voting in the *Majlis*.

### Is the Caliph a lawmaker?

An argument brought by some modernists who seek a reformation of Islam, is that *shari'a* is divine and once it's been adopted it becomes a man-made law and not *shari'a* anymore.

Abdullahi A. An-Na'im, Professor of Law at Emory University School of Law in America states:

In my view, shari'a cannot be enforced as positive legislation and remain the source of a religiously sanctioned normative system.<sup>16</sup>

In the west members of legislative bodies are called Lawmakers because through majority voting they pass legislative laws. However, in Islam those who perform ijtiḥad and extract *shari'a* legislation are called *mujtahideen* not lawmakers because they do not make the law. Rather it is Allah who is The Legislator (Al-Shari) and the *mujtahideen* simply derive the law from the Islamic legal sources revealed by The Legislator – Allah, to His Messenger Muhammad ﷺ through the process of ijtiḥad. Once the *hukm* is derived it is adopted by the mujtahid or Caliph for enforcement on the people as law.

### Can the Caliphate adopt laws from the west?

It is permitted to adopt any administrative law, policy or technological advancement from the west as long as it does not contradict *shari'a*. These styles and means which change throughout time are what allows Islam's legislation and values to be applicable to all times and places.

As discussed before the second Caliph Umar bin al-Khattab adopted the *diwan* system from the Persian Empire for organising the State Treasury (*Bait ul-Mal*). This is based on the Prophet ﷺ famous saying regarding the pollination of date palms.

Musa bin Talha narrated that, I and Allah's Messenger ﷺ happened to pass by people near the date-palm trees. He (the Holy Prophet) said: **'What are these people doing?'** They said: **'They are grafting,'** i.e. they combine the male with the female (tree) and thus they yield more fruit. Thereupon Allah's Messenger ﷺ said: **'I do not find it to be of any use.'** The people were informed about it and they abandoned this practice. Allah's Messenger ﷺ (was later) on informed (that the yield had dwindled), whereupon he said: **'If there is any use of it, then they should do it, for it was just a personal opinion of mine, and do not go after my personal opinion; but when I say to you anything on behalf of Allah, then do accept it, for I do not attribute lies to Allah, the Exalted and Glorious.'**<sup>17</sup>

Noah Feldman highlights this point:

The administrative regulations that covered so much of life in the classical Islamic legal world were understood by one and all to derive from the authority of the ruler that was recognized by the shari'a. A regulation could never contradict or supersede the shari'a.<sup>18</sup>

## Where is the Upper House?

In a bicameral democratic system which most democracies are today the legislature is split in to two houses, a lower house and upper house. This separation is for providing additional checks and balances. In America Congress is split in to the House of Representatives and the Senate. Both being elected houses. In Britain parliament is split in to an elected lower house called the House of Commons and a part appointed, part hereditary upper house called the House of Lords.

The Caliphate is not a democracy and the *Majlis* ul-Ummah is not a legislature therefore the bicameral model does not apply. Instead the *Mazalim* Court oversees the *Majlis* and will resolve any disputes between the *Majlis* and the Caliph. The court also checks all legislation, administrative laws and constitutional amendments to ensure they conform to *shari'a*.

Feldman makes a similar proposal when discussing the Islamic legislature that it "*could be a court exercising Islamic judicial review to shape and influence laws passed in its shadow.*"<sup>19</sup>

## Enforcing *shari'a*

Abdelwahab El-Affendi states:

The central misunderstanding of current Muslim political thought is the confused belief that a state based on Islamic principles is one which forces people to live according to Islam.<sup>20</sup>

In refutation of the above statement it is enough to refer to the words of Allah in the Holy Qur'an:

وَمَا كَانَ لِمُؤْمِنٍ وَلَا مُؤْمِنَةٍ إِذَا قَضَىٰ اللَّهُ وَرَسُولُهُ أَمْرًا أَنْ يَكُونَ لَهُمُ الْخِيَرَةُ مِنْ أَمْرِهِمْ ۗ وَمَنْ

يَعْصِ اللَّهَ وَرَسُولَهُ فَقَدْ ضَلَّ ضَلَالًا مُّبِينًا

When Allah and His Messenger have decided something it is not for any man or woman of the believers to have a choice about it. Anyone who disobeys Allah and His Messenger is clearly misguided.<sup>21</sup>

A state cannot exist without laws. These laws will differ depending on the type of system implemented. For the Caliphate which is an ideological Islamic state the basis of law is *shari'a* whereas in secular-democracies the basis is the whims and desires of man. In society however people will simply follow the law of the land when conducting their day to day business regardless of the basis on which the law was derived. For example, when buying goods in

America a Muslim and non-Muslim will use dollars, and in the Caliphate they will use dinars and dirhams. If they steal the goods in America they will be punished, and if they steal in the Caliphate they will be punished. The punishments and judicial process differ between the states but in essence it's about law and order which must exist for a society to function.

Therefore, the law of the Caliphate which happens to be based on *shari'a* will be applied upon all citizens whether Muslim or non-Muslim with the caveats mentioned below.

### **Areas of society where laws are not adopted**

The Caliphate is not a totalitarian state which micromanages every aspect of society. The Caliphate only adopts laws from the *shari'a* necessary to manage life's affairs. It does not adopt divine rules pertaining to worship (*ibadat*) except Zakat and Jihad due to their societal impact. It also does not adopt in any of the thoughts connected to the Islamic *aqeeda*. This means the state will not force one school of thought (*mazhab*) upon the Muslims forcing them to pray in a particular way or adopt a particular school of thought in the branches of belief.

In certain periods of Islamic history, the executive did attempt to impose a particular school of thought both in belief and action upon the ulama (scholars) who were upholding the legislative and judicial branches of the state. The Abbasid Caliph Al-Ma'mun (813-833) was the first to introduce a *mihna* (inquisition) which forced the ulama to adopt the Mu'tazilah school of thought pertaining to the philosophical question of whether the Qur'an was created or not. This *mihna* was finally abolished in 847 by the Caliph Al-Mutawakkil but not before causing much harm to the ummah. Therefore, a future Caliphate will restrict its adoption to the societal transactions (*mu'amilaat*) and penal code (hudud) and those areas of worship (*ibadat*) with societal impact such as the start of Ramadan, what items zakat is payable upon and when is Eid.

Any Muslim regardless of their school of thought will be left alone to practise without interference from the state, providing the school of thought is not outside the boundaries of Islam.

Similarly, non-Muslims will be left to practise their religions without interference from the state. They will not be forced to become Muslim and they can continue worshipping in their churches or synagogues. They can eat according to what their religions permit such as pork. They can drink alcohol in the private sphere but not publicly in society. This is similar to America with its open container laws that prohibit an open container of alcohol being carried publicly. Marriage and divorce will also be according to their religions. Outside this they will follow the law of the land in business, buying houses, accounting the state and so forth, the same as Muslims.



## Constitution. Written or unwritten?

A constitution is defined as, *'a body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed.'*<sup>22</sup>

Some states have written codified constitutions such as France and America and others have unwritten constitutions such as Britain.

When the first Islamic State was established in Medina the Prophet Muhammad ﷺ wrote a document which was effectively the constitution of the state. After this time though the Caliphate never had a written constitution as such until 1876 when Abdul-Hamid II introduced one for the Ottoman State. This was only in effect for two years before being abolished.

Since the future Caliphate will be a new state and an alternative governing system in the world then it should have a written constitution which outlines the principles upon which the state and its systems are based. This should be written in a general manner addressing those areas necessary to maintain unity of the state such as the constitutional process for electing a Caliph.

## 6 JUDICIAL BRANCH

The Caliphate's judiciary is responsible for issuing judgments that are enforced by the state. It settles disputes between people, prevents whatever may harm the rights of the community and also settles disputes between people and any person who is part of the government whether this is the Caliph, his cabinet, civil servants or any other official.<sup>1</sup>

There is no separation between *shari'a* courts and civil courts as we find in some Muslim countries today. The basis of the judiciary is *shari'a* the same as all other institutions of the state. The non-Muslim citizens (*dhimmi*) will have their own courts for settling issues related to their religions such as marriage and divorce, but in societal matters they will use the courts of the state and be treated the same as Muslims with full access to equal justice.

Contrary to anti-Islamic propaganda *shari'a* courts are not kangaroo courts. Judges are carefully chosen and have to fulfil more stringent conditions than judges in western judiciaries. Witnesses, both Muslim and non-Muslim, must be just for their evidence to be considered which is not a condition found in other judiciaries. Islam views punishment as a last resort, instead relying on self-accountability and god consciousness (*taqwa*) to deter someone from committing the crime in the first place. Western countries have ever increasing crime rates because their populations hold secular liberal values which are an antithesis to self-accountability and *taqwa*. Without these high Islamic values, western states have to resort to more authoritarian measures to prevent crime such as snooping on private citizen's communications under the guise of security.

### Types of Judges

There are three types of judge in the Caliphate.<sup>2</sup>

1. *Qadi* (judge) – responsible for settling disputes between people
2. *Qadi Hisbah* (inspector) – responsible for settling any breach of law that may harm the rights of the community
3. *Qadi Mazalim* (Government Investigations Judge) – responsible for settling disputes between the people and the government

### Conditions of a Judge

The following conditions are necessary before anyone takes up the post of Qadi or Qadi Hisbah. The Qadi can be a man or a woman.

1. Muslim
2. Free
3. Mature
4. Sane
5. Just ('Adl)
6. Faqih (learned scholar)
7. Aware of how to apply *shari'a* rules to different realities<sup>3</sup>

As for the Qadi *Mazalim* this post is not only judicial but political as well and is a ruling position within the state. This means being male is a condition for this post. Due to the complex nature of ruling and the variety of potential issues the *Mazalim* Judge needs to pass judgment upon then the condition of mujtahid (legal scholar) is another requirement for this position.

## Legal Principles

The Presumption of Innocence exists in an Islamic judicial court where the defendant is innocent until proven guilty. The responsibility of providing the evidence is on the plaintiff (the one who initiates the law suit) not the defendant. This is derived from the following hadith.

The Prophet Muhammad ﷺ said: **"It is the plaintiff who should provide the evidence, and the oath is due on the one who disapproves."**<sup>4</sup>

The burden of proof required to convict someone of an offence in an Islamic Court is far higher than in the West. The court does not accept circumstantial evidence as a legal proof, and only trustworthy witnesses, whether Muslim or non-Muslim are allowed to give testimony.

Many miscarriages of justice have occurred in western countries due to flawed forensic evidence or due to convicted criminals giving testimony. Confessions are investigated to ensure they were not extracted under duress or torture as is prevalent in Muslim countries today.

Different types of courts can be established depending on the case. There can be specialist courts for financial disputes or family disputes. There can also be different levels of courts depending on the nature of the crime. Al-Mawardi mentions the following example from Basra in Iraq.

Abu 'Abdullah Az-Zubayri said; "For some time, the leaders here in Basra used to appoint a judge at the central Mosque, and they called him the judge of the Mosque. He used to judge in disputes involving sums not exceeding twenty Dinars and two hundred Dirhams, and he used to impose maintenances. He would not exceed his boundaries nor the duties entrusted to him."<sup>5</sup>

The Caliphate cannot suspend habeas corpus by interning any of its citizens. It has been reported on the authority of Abdullah ibn Zubayr:

**“The Messenger of Allah has ordered that the two disputing parties should sit before a judge.”<sup>6</sup>**

There is no trial by jury in the Caliphate where unqualified citizens take on a judicial role examining evidence to determine whether someone is guilty or not. The Qadi alone passes the final judgement based on *shari’a*.

Therefore any citizen whether Muslim or non-Muslim must be brought before a judicial court and their case investigated by a judge. The detaining of ‘foreign terror suspects’ without trial for years in some cases would never happen in a Caliphate.

### **Head of the Judiciary**

In origin the Caliph is head of the judiciary but he can appoint a *Qadi ul-Qudah* (Chief Justice) to run the judiciary on his behalf. The *Qadi ul-Qudah* has the power to appoint and remove all judges in the state including the *Qadi Mazalim* if he was assigned this power.

The conditions for the *Qadi ul-Qudah* are the same as those of the *Qadi Mazalim*.

### **Is the judiciary independent?**

There are two types of judicial independence. These are institutional and decisional independence. Institutional independence means the judicial branch is independent from the executive and legislative branches. Decisional independence is the idea that the judge should be able to decide the outcome of a trial solely based on the law and case itself, without letting the media, politics or other things sway their decision.<sup>7</sup>

The Caliphate’s judiciary enshrines both institutional and decisional independence which prevents the judiciary becoming a tool for corruption in the hands of corrupt rulers.

### **The Independent High Court**

The Caliphate has an institutionally independent high court called the Court of Unjust Acts (*Mahkamat ul-Mazalim*). It is presided over by the most eminent and qualified judges in the state and granted extensive powers by the *shari’a*. It has the power to remove any official of state regardless of his role or rank, including the governor, mayors and even the Caliph.

The *Mazalim* Court is in the capital at the heart of government and investigates any government oppression that occurs from the Caliph, his assistants and any other government official. The court also checks all legislation, administrative laws and constitutional amendments to ensure they conform to *shari'a* and will arbitrate in disputes between the Caliph and the *Majlis*.

Ordinary citizens who have a serious complaint against any official or ruler can register it with the *Mazalim* Court.

What is unique about the *Mazalim* Court compared to other judicial courts, is that the Government Investigations Judge (*Qadi Mazalim*) has investigatory powers and does not require a plaintiff to register a complaint before launching an investigation. This court will therefore constantly monitor the actions of all officials of the state including to ensure their conduct conforms to *shari'a* and no oppression is committed against the people.

The executive counterbalance to the power of this Court is by the Caliph in principle having the power to appoint and remove the Chief Justice and any judges below him. The Caliph can either give his Chief Justice the power to appoint all the *Mazalim* judges or the Caliph himself can appoint them.<sup>8</sup>

In the times of the Sultans of Egypt and Ash-Sham the Court of Unjust Acts was known as the 'House of Justice' (*Dar al-'Adl*). The Sultan Al-Malik Al-Salih Ayyub appointed deputies to act on his behalf in the house of justice, where they sat to remove the *Mazalim*, and to gather the witnesses, judges and the *Faqihs*.<sup>9</sup>

Nasser O. Rabbat, Professor of Islamic Architecture at MIT describes the historical workings of the *Dar al-'Adl*.

"This unique institution, which may be best translated in today's context as "palace of justice," was initially conceived for the *qada al-Mazalim* service that is, for the public hearings held once or twice each week and presided over by the ruler himself or his appointed deputies to review and redress grievances submitted by his subjects. The earliest known *dar al-'adl* (pl. *dur al-'adl*) was built ca. 1163 by Nur al-Din Mahmud ibn Zanki in his capital Damascus, and the last one was constructed by the Mamluk Sultan al-Nasir Muhammad ibn Qalawun (r. 1294-1341, with two interruptions) at the Citadel of the Mountain (Qal' at al-Jabal) in Cairo in 1315 (it was rebuilt in 1334). Three more *dur al-'adl* are known to have been constructed between these two dates: one in Aleppo in 1189 by al-Zahir Ghazi, the son of Salah al-Din, one by al-kamil Muhammad in the Citadel of Cairo ca. 1207, and one by al-Zahir Baybars in 1262 on the slope of the spur upon which the Citadel of Cairo was built. After this no more *dur al-'adl* seem to have been built until modern times, then the palace of justice was introduced."<sup>10</sup>



*Dar al-'Adl as represented by Robert Hay in his Illustrations of Cairo (1840).*

### Are *Mazalim* Judges free to make independent judicial decisions?

The *shari'a* explicitly states that a judge must give an honest, knowledgeable and unbiased judgement on a case.

The Prophet Muhammad ﷺ said: “Judges are of three types, one of whom will go to Paradise and two to Hell. The one who will go to Paradise is a man who knows what is right and gives judgment accordingly; but a man who knows what is right and acts tyrannically in his judgment will go to Hell; and a man who gives judgment for people when he is ignorant will go to Hell.”<sup>11</sup>

The *shari'a* also specifies how the judge should act within the judicial court sitting.

The Prophet Muhammad ﷺ said: “Whoever Allah tests by letting him become a judge, should not let one party of a dispute sit near him without bringing the other party to sit near him. And he should fear Allah by his sitting, his looking to both of them and his judging to them. He should be careful not to look down to one as if the other was higher, he should be careful not to shout to one and not the other, and he should be careful of both of them.”<sup>12</sup>

Al-Mawardi explains some of the specific qualities needed by the *Mazalim* Judge due to his important position within the state.

Judicial investigation of wrongs or abuses is concerned with leading those who have committed wrongs to just behaviour by instilling fear in them, and with dissuading litigants from undue obstinacy in their disputes by instilling a feeling of respect. Thus among the qualities demanded of the judicial investigator is that he be of imposing stature, that he ensures action follows his words, that he commands great respect, is manifestly correct in his keeping within moral bounds, restrained in his appetites, and possessed of great scrupulousness: he needs to have the strength of the law-enforcement officers, and the firmness of the qadis in their judicial tasks and to combine the qualities of these two types of person, so that by the majesty of his bearing he is able to execute any command with respect to both parties.<sup>13</sup>

To ensure the *Mazalim* Judge is free from political influence the *shari'a* has restricted the executive powers of the Caliph regarding the judge's removal from office. If the *Mazalim Judge* is currently investigating a case against the Caliph, Assistant Caliphs or the Chief Justice then the Caliph cannot remove the *Mazalim* Judge from his post. The evidence for this is the *shari'a* principle, 'the means that leads to haram (something forbidden) is itself haram.'<sup>14</sup>

### Can the Caliph pardon crimes?

There is no concept in the Caliphate of a 'pardon' for crimes committed and where a sentence has been passed as exists in the west. The US constitution allows the President to Pardon all crimes except impeachment.

Article II, Section 2 states that the President: "*shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.*"

This gives the US President huge judicial power in overturning court rulings or even preventing prosecutions from taking place. The most famous 'misuse' of this power was by Gerald Ford in 1974. After Richard Nixon resigned from office due to the Watergate scandal his Vice-President Gerald Ford assumed the Presidency. In a televised address to the nation on 8 September 1974 President Ford gave Nixon a full and unconditional pardon for his part in the Watergate scandal, hence preventing any further judicial proceedings against him. Critics claimed that this was a 'corrupt bargain' between the two men. Nixon would resign giving Ford the Presidency in return for Ford giving Nixon a full pardon.<sup>15</sup> Either way such an incident can never take place in the Caliphate.

## Court of Appeal

Once a judge has passed a judgement on a matter then in origin this ruling cannot be overturned by anyone in the state including the Caliph.<sup>16</sup>

However, there is an appeal process for those judgements which someone believes have been made on a basis other than *shari'a* or when new evidence comes to light that places doubt over the original witness testimonies. For example, if a witness in a murder trial later admits he lied or the real murderer confesses then this judgement would be overturned. The *Mazalim* Court is the appeal court for such cases.<sup>17</sup>

### Can the Caliph overturn a ruling by the *Mazalim* Court?

The Caliphate's judiciary is responsible for issuing judgments that are enforced by the state. Therefore, once the *Mazalim* Judge has issued a judgement against the Caliph it must be enforced by the institutions of state such as the army, police or Treasury (*Bait ul-Mal*). The Caliph cannot overturn the ruling under any circumstances and he will be forced if necessary to submit to it.

As an example, if the Caliph introduced a new taxation to build a grand, new mosque to celebrate his 60<sup>th</sup> birthday, as King Hassan in Morocco did when he spent \$800 million on the Hassan II mosque in Casablanca, then the *Mazalim* Court has the power to scrap this taxation. The Treasury would be forbidden from imposing this taxation and the Caliph would have no power whatsoever in this matter.

In many Muslim countries today the Treasury is used as private bank account by the corrupt rulers who waste millions on palaces while their people live in abject poverty. Compare this to the rightly guided Caliph Umar ibn al-Khattab and his relationship with the Treasury.

Ibn 'Umar said that when 'Umar ibn al-Khattab was in need, he used to go to the man in charge of the Bait ul-Mal and seek a loan from him. Often he might be in difficulty and the man in charge of the treasury would come to him, seeking repayment of the debt and would oblige him to pay it, and 'Umar would try and avoid him until he received his allowance (for being Caliph) and so pay his debt.<sup>18</sup>

Many examples exist within Islamic history to illustrate the decisional and political independence of judges within the Caliphate. In the time of Imam Ali, the fourth Caliph, his chief judge was Qadi Shurayh.



The Qadi Shurayh said: When Ali was setting out to Siffin (for battle), he found that he was missing a coat of armour of his. When the war was over and he returned to Kufah (Caliphate capital), he came across the armour in the hands of a Jew. He said to the Jew, "The armour is mine; I have not sold it or given it away." The Jew said, "It is my armour and it is in my hand." He said, "Let us go to the Qadi." ... Shurayh said, "Speak Amir al-Mumineen (leader of the believers)." He said, "Yes. This armour which the Jew has is my armour; I did not sell it nor did I give it away." Shurayh said, "What do you say Jew?" He said, "It is my armour and it is in my possession." Shurayh said, "Do you have any evidence Amir al-Muminin?" He said, "Yes. Qanbar and Hasan (Ali's son) will witness that the armour is mine." Shurayh said, "A son's witness is not acceptable on behalf of his father." Ali said, "A man from the Garden (referring to Hasan), and his testimony is not acceptable? I heard the Prophet ﷺ saying, 'Al-Hasan and al-Hussein are the two lords of the youth of the people of the Garden.'" The Jew said, "The Amir al-Muminin brought me before his Qadi, and his Qadi gave judgement against him. I witness that this is the truth, and I witness that there is no god but Allah and I witness that Muhammad is the Messenger of Allah, and that the armour is your armour."<sup>19</sup>

In the time of the Abbasid Caliphate, it is narrated that Caliph al-Ma'mun (813 – 833CE, 191AH), used to personally sit in the *Mazalim* Court on Sundays. On one such day a woman in rags confronted him complaining that her land had been seized.

Al-Ma'mun then asked her: "Against whom do you lodge a complaint?" She replied: "The one standing by your side, al-'Abbas, the son of the Amir of the Believers." Al-Ma'mun then told his Qadi, Yahya ibn Aktam, (while others say that it was his wazir Ahmad ibn Abi Khalid), to hold a sitting with both of them and to investigate the case – which he did in the presence of al-Ma'mun. When the women raised her voice and one of the attendants reprimanded her, al-Ma'mun said: "Leave her, for surely it is the truth which is making her speak, and falsehood which is causing him to be silent," and he ordered that her land be restored to her.<sup>20</sup>

## Impeachment

The Assistant Caliphs are accountable not only to the Caliph but also the *Majlis*. They can be removed if the *Majlis* passes a vote of no-confidence in them. This also applies to the provincial governors and mayors but not the Caliph.

The Caliph is the state and is the pillar maintaining stability. His removal has huge political and economic implications to the society. Therefore, his impeachment cannot be performed by the *Majlis*. It must be performed by the Supreme Court which is the *Mazalim* Court. This is the only institution within the state that has the power to remove the Caliph. The Caliph has no power to remove any judge which is investigating him. His removal must be because he contradicted one

or more of the seven contractual conditions mentioned earlier leading to the *bay'a* contract either becoming void (*batil*) or defective (*fasid*). If the *bay'a* contract is still valid then no impeachment will take place and the Caliph will remain in office. The example below illustrates this point.

The Prophet Muhammad ﷺ gave the third Caliph Uthman bin Affan a prophecy, that he would be given a cloak and when people come to take it off him he shouldn't take it off. Uthman ruled for twelve prosperous years but in the last few months of his rule he faced a rebellion where people wanted him removed from office for malicious reasons. The *bay'a* contract remained valid and the reasons given for removing him were invalid. Unfortunately, the rebels assassinated Uthman when he refused to break the *Bay'a* leading to years of civil war and unrest.

## 7 HOUSE OF REPRESENTATIVES

The House of Representatives (*Majlis al-Ummah*) is an elected council whose members can be Muslim, non-Muslim, men or women. These members represent the interests of their constituencies within the state. The *Majlis* has no powers of legislation like in a democratic parliament but it does have many powers that act as a counterbalance to the executive powers of the Caliph.

Members of the *Majlis* can voice their political opinions freely without fear of imprisonment or rebuke. Along with its mandatory powers listed below this makes the *Majlis ul-Ummah* a very powerful institution for accounting the Caliph and his government.

The *Majlis* has its evidence in the rule of *shura* (consultation) that is a right given to Muslims (men and women) by the *shari'a*. Allah says in the Holy Qur'an:

وَشَاوِرْهُمْ فِي الْأَمْرِ

And do consult them in the matter<sup>1</sup>

The areas where *shura* applies and whether its binding or not on the Caliph are explained in more detail in the Legislative Branch Chapter.

As for non-Muslims, Allah ordered the questioning of the People of the Book (Jews and Christians) regarding whatever we do not know, and this is proof for the permissibility of taking their opinion.

فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ

So ask the people of knowledge if you don't know<sup>2</sup>

If it is permissible to take their opinion it is permissible for them to be members of the *Majlis*.<sup>3</sup>

**Why is it called *Majlis ul-Ummah* and not *Majlis ash-Shura*?**

As the mandatory powers of the *Majlis* make clear this council is more than just a consultative body. It also has powers to remove the governors and assistants in addition to being the body that elects the Caliph. It acts as a very important accountability mechanism within the state. Therefore, restricting the name of this council to *shura* alone would be incorrect.

Some may ask doesn't the Arabic word *ummah* apply to Muslims alone? In answer to this the word *ummah* is a homonym (*mushtarak*) which is a word with more than one meaning. It is used to refer to one person, a community, the Muslims, the citizens, the deen and so on. As with all Arabic words in the *shari'a* texts the intended meaning is determined by an indication (*qarīnah*). The intended meaning of *ummah* in *Majlis ul-Ummah* 'is citizens (*ra'iyyah*).<sup>4</sup>

## Powers of the House

The *Majlis ul-Ummah* has the following mandatory powers:<sup>5</sup>

1. The Caliph has to consult the *Majlis* and the *Majlis* has the right to advise him in the practical matters and actions related to discharging the affairs of the domestic policy that do not require deep conceptual research and serious consideration. These are the provision of the necessary services so as to enjoy the tranquillity in life in terms of ruling, education, health, economy, trade, industry, agriculture and the like. *These are the non-Technical Administrative Laws discussed in the Legislative Branch chapter.*
2. In the intellectual matters that require deep research and serious consideration, the issues which require experience and knowledge, the specialist and scientific issues, and similarly finance, the army and foreign policy, the Caliph has the right to consult the *Majlis* about them and to acquaint himself with its opinion. However, the opinion of the *Majlis* is not binding in these matters. *These are the Technical Administrative Laws discussed in the Legislative Branch chapter.*
3. The Caliph has the right to refer to the *Majlis* the laws and rules which he wants to adopt. The Muslim members of the *Majlis* have the right to debate them and voice their opinions regarding those rules. However, if they disagreed with the Caliph regarding the validity of their deduction or their evidence, in terms of their disagreement with the method of adoption from the basis of legislation (*usul*) adopted in the State, then the decision will refer to court of *Mazalim*, and its verdict in this matter is binding. *These are the Legislative Laws discussed in the Legislative Branch chapter.*
4. The Ummah's has the right to hold the Caliph accountable on all matters that take place within the State, whether these were related to domestic or foreign affairs, financial affairs or military matters. The opinion of the *Majlis* is binding if the majority's opinion in such matters is binding (power 1), and it is not binding if the majority's opinion in such matters is not binding (power 2). If the *Majlis* and the Caliph differed about the legitimacy of an action that

had already been executed the matter should be referred to the court of *Mazalim* to settle the question. Its verdict on the matter is binding.

5. The *Majlis ul-Ummah* has the right to express discontentment towards the assistants, governors or mayors. Its opinion in such a case would be binding and the Caliph should dismiss them at once. If the opinion of the *Majlis ul-Ummah* differed from the opinion of the regional assembly of the concerned province regarding contentment and discontent of the governors and mayors, the opinion of the *Majlis* of the province takes precedence.
6. Muslim members of the *Majlis* have the right to restrict the nomination of candidates for the Caliph from among those who fulfilled the contractual conditions as decided by the *Mazalim* court. Their opinion in this is binding, and candidates other than those shortlisted by the *Majlis* should not be considered. *A summary of the election process is discussed in the Authority to Rule chapter.*

### **Is the *Majlis* a legislature?**

As discussed in the Legislative Branch chapter the Caliphate is not a democracy and the *Majlis ul-Ummah* is not a legislature. Although the *shari'a* committee of the *Majlis* has the right to scrutinise the Legislative Laws this is not through majority voting but rather through the Islamic method of *ijtihad*. The opinion of the *shari'a* committee is not binding on the Caliph, though any disputes would be referred to the *Mazalim* court for resolution.

The only area where there is similarity between the *Majlis* and a democratic legislature is in the non-Technical Administrative Laws which are subject to majority voting. Democracy does not distinguish between legislative, technical administrative and non-technical administrative laws like the Caliphate does, so the *Majlis* cannot be considered a democratic legislature.

### **Are Representatives Appointed or Elected to their Positions?**

The basis of the *Majlis ul-Ummah* is to represent the citizens of the Islamic State. The first Islamic State in Medina governed by the Prophet Muhammed ﷺ was initially a small city state where the natural representatives of the people were known. This is why the Prophet Muhammad ﷺ appointed representatives to the *Majlis* in Medina. He ﷺ appointed the prominent personalities and natural representatives from the Muhajireen and Ansar in Medina. Among them were, Abu Bakr, 'Umar, Hamza, Ali, Salman Al-Farsi and Hudhayfah.<sup>6</sup>

City states do not exist nowadays and therefore the Caliph cannot know all the representatives of the people. At the second pledge of Aqaba, which was the *bay'a* given by the Ansar to

establish the first Islamic State in Medina, the Prophet Muhammad ﷺ didn't know every member of the Aws and Khazraj tribes (Ansar), so he ﷺ said, **"Choose from among you twelve leaders who will be responsible for themselves and their people."**<sup>7</sup> Therefore the majority of the positions to the *Majlis ul-Ummah* will be elected by the people as this is the best method to ensure true representation.

In addition to elected representatives there may be a requirement to appoint certain people to the *Majlis* to ensure true representation. These appointments will be heads of the other religions existent within the state. They will represent their respective religious communities and raise any complaints or issues which affect them. In the Ottoman Caliphate a similar system existed where *Millets* were established which had their own councils headed by a religious leader. Instead of operating separate entities as the Ottomans did a future Caliphate will have one central *Majlis ul-Ummah* containing all representatives of the different communities within the state.

Having said this when the Caliphate is initially established elections may not be possible immediately. In such a situation the Caliph and governors will need to appoint representatives to the *Majlis ul-Ummah* and Regional Assemblies (*Majlis ul-Wiliyah*). These will be heads of Islamic groups, tribal leaders and other notable influentials within the state. Part of the work undertaken by Political parties working to establish the Caliphate is to identify the influential people in society not only for establishing the state but also so they can play a prominent role in building the new society after the Caliphate's establishment.

## Elections

It is permitted to adopt any administrative law, policy or technological advancement from any country or system including the west as long as it does not contradict *shari'a*. These styles and means which change throughout time are what allows Islam's legislation and values to be applicable to all times and places. Therefore elections within the Caliphate and the structure of the *Majlis* will be similar administratively to those found in the west.

A Regional Assembly (*Majlis ul-Wiliyah*) which is similar to the central *Majlis ul-Ummah* exists in each province. Every five years each province (*wiliyah*) of the Caliphate will hold elections for the Regional Assembly. The Assembly will then go on to elect a number of individuals to the central *Majlis ul-Ummah*.<sup>8</sup> The number of positions each Assembly has in the *Majlis ul-Ummah* is dependent on population size as is the case in America for example.

## Term of Office

Each *Majlis* and Regional Assembly member will have a limited term of office which will be five years. Once their term is up they will have to step down or seek re-election. There is no limit on the number of times they can be re-elected.

## Will *Majlis* Members receive a wage from the state?

As with all government posts and civil service positions within the Caliphate they will be given a wage and expenses.

## Committees

The *Majlis* will consist of various committees. These are:

**Sharī'a Committee:** This consists of Muslim men and women scholars (ulama) only. Since belief in Islam is a condition of deriving legislation, non-Muslims cannot be on this committee. A certain level of legal knowledge is required to scrutinise ijtihad therefore only those Muslim *Majlis* members who are legally qualified can sit on this committee.

**House Committee:** This consists of all members of the *Majlis* including Muslims and non-Muslims. Any issue which is based on majority voting such as the non-technical administrative laws and impeaching government officials is performed by the entire council or House Committee.

**Electoral Committee:** This consists of Muslim men and women only because the election is for contracting the *bay'a* (pledge of allegiance) to the Caliph. Non-Muslims are not part of the *bay'a* and they have a separate contract with the state called *dhimmah* which is discussed elsewhere. The process for electing the Caliph is discussed in the Authority to Rule chapter.

**Technical Committees:** This consists of Muslim or non-Muslim men and women who have expertise in the particular field where the technical administrative law is being discussed. Expertise from outside the *Majlis* can also be brought in to these committees as we find in the west.

## 8 POLITICAL PARTIES

In addition to the institutionalised mechanisms of accountability discussed so far, Islam also ordered the establishment of political parties. Although members of the government will in many cases be members of political parties the Caliphate does not have a party system of ruling as found in western democracies.

Political parties in the Caliphate are established primarily to account the Caliph and his government. Their task is to safeguard the thoughts of Islam in society and to ensure the government does not deviate from the implementation and propagation of Islam.

The right of the Caliphate's citizens to establish Islamic political parties is established from the Holy Qur'an. No permission is required from the government to establish these parties as the legislative branch of the Caliphate (*shari'a*) has given permission for this.

**What is the sharia evidence for political parties?**

The following verse of the Holy Qur'an orders the establishment of political parties.

وَلْتَكُنْ مِنْكُمْ أُمَّةٌ يَدْعُونَ إِلَى الْخَيْرِ وَيَأْمُرُونَ بِالْمَعْرُوفِ وَيَنْهَوْنَ عَنِ الْمُنْكَرِ ۚ وَأُولَٰئِكَ هُمُ  
الْمُفْلِحُونَ

Let there arise from amongst you group(s) which calls to al-Khair (Islam), enjoins al-ma'ruf (good) and forbids al-munkar (evil), and they are the successful ones.<sup>1</sup>

The order to establish a group is an order to establish Islamic political parties. This is deduced from the fact that the verse has determined the duty of this group which is the call to Islam, enjoining the good (*Ma'ruf*), and forbidding the evil (*Munkar*). The duty of enjoining good and forbidding evil is general due to the prefix AL (ال) and not restricted. It therefore includes the rulers and this implies holding them accountable. The holding of the rulers accountable is a political task performed by political parties and it is the most important task of the political parties.

Therefore, the verse indicates the duty of establishing political parties which would call to Islam, enjoin good and forbid evil, and would hold the rulers accountable for their actions and conduct.<sup>2</sup>



## Political Parties in Islamic History

Historically the companions (*sahaba*) of the Prophet ﷺ were the political party who performed the duties outlined in this verse. After the rightly guided Caliphate the state fell in to dynastical rule which meant there was no mechanism for political parties to participate within the system or get their views heard by government so these parties also had military wings and fought to gain power. So, the Abbasids took power from the Umayyads at the Battle of Zab. The Abbasids faced a number of internal coups with the Sultans (semi-independent governors) becoming the main power base in the later period of the Abbasid rule. The Ottomans took power from the Abbasids in Egypt and also faced a number of internal coups towards the end of their reign.

In a future Caliphate, there will be processes in place on how to elect the next Caliph and also an elected House of Representatives (*Majlis ul-Ummah*) where all citizens regardless of their school of thought, race or religion will be represented. This will be enshrined in the state's constitution. Therefore, political parties will have no need to resort to armed struggle to gain power as the state will have a mechanism for them to influence government. These parties will put forward candidates in the *Majlis* elections and campaign for them. It should be noted that the Caliphate is an ideological Islamic State. This means all elements of the state work towards achieving Islamic objectives not material objectives. Political parties in Islam are not like those secular parties found in the west or in Muslim lands today who seek power for material gain. Political parties in Islam seek power to ensure Islam remains strong through the laws and policies of the state both at home and abroad.

## Power of Political Parties

The importance and power of political parties within society cannot be underestimated. Individuals have a very limited impact when accounting governments. It's very easy for the government to either ignore the individual or even imprison them preventing their message getting through. Without coordinated mass effort they can never influence public opinion enough to be effective in their accountability. Political parties if structured correctly and unified in their message can literally move mountains when it comes to influencing public opinion and the policies of government.

The brutal suppression of opposition parties in the Muslim world shows how much the rulers fear political parties as a threat to their rule. Islam Karimov in Uzbekistan even resorted to boiling alive his political opposition in an attempt to curb their influence. According to Human Rights Watch:

Muzafar Avazov, a 35-year-old father of four, was killed at the brutal Jaslik jail. Human rights groups said that the body showed signs of burns on the legs, buttocks, lower back

and arms, indicating that he was boiled to death. Not content with this the 63-year-old mother of Muzafar Avazov was then sentenced to 6 years imprisonment and hard labour for informing human rights groups of her son's brutal murder.<sup>3</sup>

Despite these shocking brutal tactics by the Uzbek regime the Islamic political opposition in Uzbekistan remains stronger than ever.

The strength and power of parties can also be seen in the time of the Prophet ﷺ and the companions in Mecca.

The Islamic call was known from the first day the Messenger of Allah ﷺ received the message. People in Makkah had known all along that Muhammad ﷺ was calling for a new Deen, and that scores of people had embraced Islam. They also knew that Muhammad ﷺ was gathering his companions and looking after them, and that the Muslims concealed themselves from the rest of the Quraysh while they grouped together and learned about their new Deen.

People in Makkah were aware of this new call and of those who believed in it, but they never knew where they met or who they were. That is why when the Messenger of Allah ﷺ proclaimed his new belief, it did not come as a surprise. What surprised Makkah was the emergence of this new group of Muslims. The Muslims had gained a great deal of strength when Hamzah ibn 'Abd al-Muttalib embraced Islam, followed by 'Umar ibn al-Khattab three days later. Then came the revelation of Allah:

فَاصْدَعْ بِمَا تُؤْمَرُ وَأَعْرِضْ عَنِ الْمُشْرِكِينَ

**"Therefore, proclaim openly that which you are commanded, and turn away from  
Al-Mushrikun"<sup>4</sup>**

Allah's Messenger ﷺ duly obeyed Allah's command and presented his group to all of Makkah. He ﷺ went out with his Sahabah in two lines, one led by 'Umar and the other by Hamzah. The Sahabah walked in a manner that the Quraysh had never witnessed before. He ﷺ then did tawaf around the Ka'bah with them.

This is the stage when Allah's Messenger ﷺ moved with his Sahabah from the secret phase to the open one, from calling and addressing and inviting those whom he felt were ready to answer his call, to addressing all people.

The disbelievers then began resisting and fighting the Da'wah, inflicting in the process all kinds of harm and injury on the Messenger of Allah ﷺ and his Sahabah. This phase was one of the most severe.<sup>5</sup>

As mentioned above the companions of the Prophet ﷺ were the political party during the time of the Rightly Guided Caliphate.

During the rule of the second Caliph Umar bin al-Khattab, some cloth from the spoils of war was distributed to the people, out of which each companion had one piece of clothing cut. One day Umar got up to speak and said: **Lower your voices so that I may hear you.**' He was wearing two pieces of that cloth. Salman al-Farsi, a senior companion said, **By Allah, we will not hear you, because you prefer yourself to your people.**' How is that?' asked Umar. He said: **You are wearing two pieces of cloth and everyone else is wearing only one.**' Umar called out: **O Abdullah!**' No one answered him. He said again, **O Abdullah ibn Umar!**' Abdullah, his son called out: **At your service!**' Umar said, **I ask you by Allah, don't you say that the second piece is yours?**' Abdullah said **Yes.**' Salman said: **Now we shall hear you.**<sup>6</sup>

The companions led in publicly accounting the rulers to ensure no oppression or misuse of funds was committed even down to a piece of cloth!<sup>6</sup>

### Will multiple political parties lead to disunity?

An argument can be made that multiple groups and parties will lead to disunity within the state. This is true if the groups and parties established did not call to *Al-Khair* i.e. Islamic objectives and instead called for foreign thoughts and concepts such as nationalism, secularism and socialism. Any party founded on a basis other than Islam and calling for any thoughts and concepts contradicting Islam would be forbidden in the state. Historically, one of the major factors in the destruction of the Caliphate was the establishment of Turkish and Arab nationalist parties supported by the colonial powers of the time Britain and France.

Looking to the Qur'an the order to establish political parties came directly after the order not to separate. The *waw* (و) at the beginning of verse 104 is a conjunction ('*atf*') equivalent to 'and' in English. This means the verse is not resuming a new sentence but is linked to the previous verse which starts with the command:

وَاَعْتَصِمُوا بِحَبْلِ اللَّهِ جَمِيعًا وَلَا تَفَرَّقُوا

Hold fast to the rope of Allah all together, and do not separate.<sup>7</sup>

The next verse also begins with a *waw* of ‘*atf* and again orders the Muslims not to separate.

وَلَا تَكُونُوا كَالَّذِينَ تَفَرَّقُوا وَاخْتَلَفُوا مِنْ بَعْدِ مَا جَاءَهُمُ الْبَيِّنَاتُ ۖ وَأُولَٰئِكَ لَهُمْ عَذَابٌ عَظِيمٌ

Do not be like those who split up and differed after the Clear Signs came to them. They will have a terrible punishment <sup>8</sup>

On the surface these commands not to separate and split up in verses 103 and 105 seem to contradict the command to separate and establish groups in verse 103. So how is this apparent contradiction addressed? Ibn Ashur answers this in his tafseer:<sup>9</sup>

His (Most High) speech **“Do not be like those who split up”** is a conjunction to His speech **“Let there arise from amongst you group(s)”**, and it also returns to His speech before **“do not separate”**

...the reprehensible differences which lead to separation, are the differences in *usul ul-deen* (foundations of the religion) which leads some of the ummah to *kufr* (disbelief) or *fisq* (transgression), and not the differences in the *furu* (branches) which are based on differences in the interests of the ummah in the regions and the ages, through *ijtihad*. If we examine the history of the Islamic Schools of Thought (*mazahib*), we do not find separation arising between the Muslims from differences in *aqeeda* and *usul*. We only find differences in *ijtihad* in the *furu* of *shari'a*.

### Dangers of no strong political parties within the state

Historically in the time of the Rightly Guided Caliph Uthman, it was the absence of a strong party of *sahabah* in the capital of the state which allowed the rebels to take a foothold, leading to the assassination of the Caliph and years of civil war.

Dr as-Sallabi describes this incident:

Umar had prevented the prominent people of Quraysh, the Muhajireen, from leaving to other countries, except with permission for a short period. They complained about him and news of that reached him, so he stood up and said, ‘I liken Islam to the ages of a camel; it starts out as a *jadha*’ (one year camel), then it becomes a *thaniyy* (two year old), then a *raba’iyy* (four year old), then a *sadasiiyy* (six year old), then a *bazil* (nine year old). Is there anything left for the *bazil* but the onset of its decline (as it has reached its peak)? Now Islam is like the *bazil* (i.e. it has reached its peak). So long as *ibn al-Khattab* is alive, I will be standing at the mountain pass of *al-Harrah*, holding Quraysh by their chests to prevent them from throwing themselves into the fire.’ Umar was afraid for these *Sahabah* if they scattered in the conquered lands and acquired property and wealth. If one of the Muhajireen whom Umar was keeping in *Madinah* came

to Umar and asked him for permission to leave, Umar would answer: **'In your having campaigned with the Messenger of Allah ﷺ is that which will take you to Paradise; what is better for you today than going out on campaign is not seeing any worldly temptations.'**

But Uthman allowed them to go out and was easy going with them. Al-Sha'bi said: When Uthman became Caliph, he let them go and they went all over, and the people gathered around them, so he was dearer to them than Umar. As a result of that expansion, some of Quraysh gained wealth and property in the regions, and people gathered around them. According to one report, when Uthman proved not to be strict with them as Umar had been, they spread all over. When they saw this world and the people saw them, those who had no virtue and nothing to offer Islam and were not known among the people at all gathered around them, and thus different groups formed. That was the first weakness that appeared in Islam, and the first fitnah that affected the masses.<sup>10</sup>

Therefore Islam allows difference of opinion, and different schools of thought as long as they are based on the Islamic *aqeeda* and *shari'a*, and derived through *ijtihad*. What is prohibited is differing in the *aqeeda* and establishing sects (*firqa*) among the Muslims like what occurred to the Jews and Christians previously. This means Islamic political parties are established to bring unity and prevent disunity in the core values of the Islamic State.

## 9 MEDIA

Media nowadays has become incredibly powerful and is often referred to as the fourth branch of government. They play a vital role in accounting governments and shaping public opinion. For this reason, governments in the Muslim world impose strict controls on the media and many journalists and editors have been imprisoned for exposing government corruption.

The west prides itself on having a free press without the stringent media controls and censorship which exists in the Muslim world. However, the reality is that no country operates a completely free media or has unlimited free speech. Media in the west works for the interests of a tiny wealthy capitalist elite. Owen Jones in his book 'The Establishment' explains this point.

There is not a free press in Britain: there is a press free of direct government interference, which is a different thing altogether. Instead, most of the mainstream media is controlled by a very small number of politically motivated owners, whose grip on the media is one of the most devastatingly effective forms of political power and influence in modern Britain. The terms of acceptable political debate are ruthlessly policed, particularly by the tabloid media; those who fall foul of them can face crucifixion by newspaper. The media, in other words, is a pillar of the Establishment – however much many journalists may find this an unpalatable truth.<sup>1</sup>

### Role of the Media in Islam

The government of the Caliphate does not have a monopoly on the media. Any citizen of the Islamic State is allowed to set up media whether newspapers, magazines, radio or television. Permission is not required to establish this type of media although the Department of Information (*Da'irat ul I'laam*) must be informed of their establishment.<sup>2</sup>

As is the case in any state there are limits to the general remit of the press and they must operate within the law. Sensitive information related to national security cannot be published without prior permission from the Information Department. Slander, libel, incitement, racism, insulting religious beliefs and the propagation of depraved and misguided cultures are not allowed by *shari'a*.

The media within the Caliphate has full rights to account the Caliph and his government, investigate any government oppression (*mazlama*) or other issues that pose a danger or are in the interests of the society at large. The media can investigate and publish this without fear of any arrest or persecution.

The work of the media within the Caliphate falls under the general obligation of enjoining the good (*Ma'ruf*) and forbidding the evil (*Munkar*) which is a collective duty on society as a whole.

The Prophet Muhammad ﷺ said: **"By Him in whose hand is my soul, you must enjoin the good and forbid the evil, otherwise Allah will be about to send His punishment upon you. And then if you pray to Him (to ask Him), he would not answer you."**<sup>3</sup>

## Information Department

The Information Department oversees media in the Caliphate and also acts as the Media Office of the government. The foreign policy of the Islamic State is to propagate Islam to the world and the media strategy will be in line with this objective. Since the Caliphate is an Islamic ideological state which means all elements of society work towards achieving Islamic objectives private media will also contribute to this work.

## Is there freedom of speech in the Caliphate?

The concept of 'freedom of speech' is derived from the Capitalist ideology that is based on the belief that God and religion should be separated from life's affairs (secularism). Human beings define how to live their lives free of the constraints of religion which is why freedom of individual, ownership, religion and speech are essential cornerstones of Capitalism. The right to speak and what are the limits of speech are therefore all defined by human beings.

Noam Chomsky, summed up the western concept of freedom of speech when he said:

If you believe in freedom of speech, you believe in freedom of speech for views you don't like. Goebbels was in favour of freedom of speech for views he liked. So was Stalin. If you're in favour of freedom of speech, that means you're in favour of freedom of speech precisely for views you despise.<sup>4</sup>

This view completely contradicts Islam. In Islam, it is the Creator of human beings Allah (Most High) who gave the right of speech to people and defined the limits on what is acceptable and unacceptable speech.

The Prophet Muhammad ﷺ said: **"Whosoever believes in Allah and the Last Day, then let him speak good (khair) or remain silent."**<sup>5</sup>

*Khair* in this hadith means Islam or what Islam approves of.<sup>6</sup>

Every word a human being speaks is recorded by the two angels called *Kiraman Katibeen*. Even the speaking of one bad word may lead someone to the hellfire.

The Prophet Muhammad ﷺ said: **“The person who utters a word which meets with Allah’s favour may think it has not been heard, yet for this Allah will raise him to a higher level of Paradise. Conversely, the person who utters a word that stirs Allah to anger may give no thought to what he said, only to have Allah cast him in Hell for seventy years.”**<sup>7</sup>

## Right of speech in the Caliphate

The west propagates to the Muslim world that freedom and democracy is the only way forward if they want to progress and rid themselves of their oppressive dictatorships. However, as Muslims we look to Islam and Islam alone for our political solutions. The Qur’an and Sunnah have given us all the answers we need to establish an Islamic political system that will free us of the current corrupt systems ruling over us. This is the Caliphate Ruling System discussed in this book. In the Caliphate, it is the constitutional right of all citizens (men and women, Muslim and non-Muslim) to express their opinions freely without fear of arrest or imprisonment within the limits of shari’a. The main areas where this right is exercised is through the *Majlis*, Political Parties and media. Accounting the government achieves the highest reward in Islam that of martyrdom.

The Prophet Muhammad ﷺ said: **“The master of martyrs is Hamza bin Abdul-Muttalib and a man who stood to an oppressor ruler where he ordered him and forbade him so he (the ruler) killed him.”**<sup>8</sup>

## Is it allowed for the media to expose corruption?

Media in the west for its faults has been pivotal in exposing government corruption and war crimes. The 2009 expenses scandal in Britain exposed widespread abuse of expenses by MPs, and CBS News in 2004 published photographs of torture and abuse by US soldiers at Abu Ghraib in Iraq. Would such exposes be allowed within the Caliphate since in origin Islam prohibits spying or exposing someone’s sins?

A Muslim who commits a sin does so either secretly or publicly. The media should not expose the secret sins as we find many tabloid newspapers doing in the west.

The Prophet Muhammad ﷺ said: **“Whosoever hides the defects of a Muslim Allah will hide the defects of that person in the Hereafter.”**<sup>9</sup>



As for the one who publicly commits sin there is no question of hiding it because he himself has exposed it. Despite this, the media should refrain from publishing stories about those who commit sins publicly not to hide their defects but due to spreading lewdness among society.

This expose of secret and public sins applies if the sin and corruption is confined to the individual and does not spread. However, if there is harm to the state or wider society then the corruption must be exposed and made public even if the sin was committed secretly.

This is derived from the hadith of Zayd bin Arqam who said:

While I was taking part in a Ghazwa (battle), I heard Abdullah ibn Ubay saying. **"Don't spend on those who are with Allah's Messenger, that they may disperse and go away from him. If we return (to Medina), surely, the more honourable will expel the meanest amongst them."** I reported that (saying) to my uncle or to 'Umar who, in his turn, informed the Prophet of it. The Prophet called me and I narrated to him the whole story..."<sup>10</sup>

Zayd bin Arqam's action is considered spying. However, this spying was obligatory because of the harm from Abdullah ibn Ubay who was head of the hypocrites in the Islamic State of the Prophet Muhammad ﷺ. Abdullah ibn Ubay and his group used to secretly conspire against the state and therefore exposing their corruption was essential to the well being of the state and society.<sup>11</sup>

### Media in the Islamic State of the Prophet Muhammad ﷺ

Media among the Arabs during the time of the Prophet Muhammad ﷺ was verbal not written and the medium was poetry. The head of the Prophet Muhammad's ﷺ Media Office was Hassan ibn Thaabit who was the chief poet.

Hassan ibn Thaabit narrated: I asked Abu Huraira **"By Allah! Tell me the truth whether you heard the Prophet ﷺ saying, 'O Hassan! Reply on behalf of Allah's Messenger ﷺ. O Allah! Help him with the Holy Spirit (Angel Gabriel).'"** Abu Huraira said, **"Yes"**.<sup>12</sup>

Other prominent poets were Ka'ab ibn Malik, and Abdullah ibn Ruwaahah. Together they worked in the service of the Islamic State in Medina.

Muhammad As-Salabi describes the effect of Hassan's media campaign against Islam's arch enemy Quraish.

The main medium of spreading information during the Prophet's lifetime was word of mouth, and given the ease with which good poems were memorized, the main information

that was being spread by word of mouth was in the form of poetry. Skilled poets, therefore were a valuable commodity in Arabia.

After the Battle of Badr was over, the poets of the Quraish concentrated their talents on composing poems that honoured Quraish's fallen soldiers and that expressed grief and resentment for the many losses their army suffered. After (the Battle of) Uhud was concluded, those same poets – such as Hurairah ibn Abi Wahb, Abdullah ibn Zab'aree, Diraar ibn Al-Khattab and Amr ibn Al-Aas – tried to overstate the significance of their victory; but no matter, for Muslim poets – Hassan ibn Thaabit, Ka'ab ibn Malik, and Abdullah ibn Ruwaahah – were ready to refute them and to counter the effects of their poems.

On a psychological level, Hassan's poems were like bullets being sprayed at the Quraish. Quraish's victory, Hassan explained, was no victory at all. The Muslims, with a wonderful show of bravery, managed to kill the flag-bearer of Quraish's army. Hassan mocked Quraish's soldiers in his poems for being cowardly, an attribute of theirs that was attested to by the fact that they could not even protect their flag-bearer – one of the most protected men of any army. Furthermore, Hassan reminded them of how their flag ended up in the hands of one of their women, since all of the men had left it, being busy with the task of fleeing from the battlefield. With these insults Hassan wanted to remind Quraish's nobles that they showed cowardice and that they went through many humiliating situations during the early part of the battle; in effect, Hassan was saying to them: "Do not be deceived by your victory; it was tainted, and we are still alive and as strong as ever!" To be sure, Arabs valued honour above all else. What honour then did Quraish's nobles have left when all over Arabia poems were being circulated in which a description was given of how Quraish's soldiers fled, which left one of their women with no choice but to pick up their flag for them. That a woman did what they were supposed to do underscored their cowardly actions.<sup>13</sup>

During the Umayyad and Abbasid Caliphates poets continued to play a pivotal role as the media of the state and the Caliphs would reward them generously. El-Affendi describes the effect of this:

This did not only contribute to the flourishing of culture, but became also an important instrument of state power, since poets at that time played the roles of today's media, advertising the ruler's (mostly imaginary) virtues, publicising his policies and shoring up the system's legitimacy.<sup>14</sup>

## 10 ACCOUNTING THE GOVERNORS

### Administrative Divisions of the Caliphate

The Caliphate is divided up administratively to aid the Caliph in the task of ruling. Administrative divisions exist in all states today differing only in size and name.

The territories which the Islamic State rules over are divided into provinces where each province is known as a *wiliyah*. The provinces are in turn divided into districts where each district is known as an *i'mala*. The person appointed over the province is called a governor (*wali*) and the person appointed over the district is called a mayor (*'amil*) or ruler (*hakim*).<sup>1</sup>

### Importance of Accounting the Governors and Mayors

For the citizens of the Caliphate, their first point of contact with the leadership of the state is the governor and the mayor. The governor and mayor are managing people's day to day affairs on a local and regional level. If the governor is oppressive then this affects people's daily lives more than any other government official including the Caliph.

Historically, there were many oppressive governors in the Islamic State. The infamous governor Hajjaj bin Yusuf in Iraq killed thousands of Muslims under his rule, although he continued to implement Islam and carry the Islamic message (*daw'ah*) to neighbouring countries.

The Prophet Muhammad ﷺ predicted that oppressive leaders would rule over the Muslims.

Hudhayfah ibn al-Yamaan narrated that the Prophet Muhammad ﷺ said: **"There will be Imams after me who will not be guided by my guidance, nor will they act according to my Sunnah; some men will rise amongst you with satans' hearts in human bodies."** Hudhayfah asked, **"What shall I do, if I were to reach that time?"** He ﷺ said, **"You should hear and obey the leader even if he whipped your back and took your money; do hear and obey."**<sup>2</sup>

During the later period of the Abbasid Caliphate the governors became very powerful and effectively ran their provinces as independent states. They became known as sultans and their provinces known as sultanates. The Caliph agreed to this state of affairs and was content with the praise he received from the mosque sermons, and by the governor mentioning that decisions were taken on the Caliph's behalf.

Therefore, detailed accountability mechanisms are needed for the governor and his mayors to ensure the unity of the Islamic State and preventing any abuse of the governor's powers that could lead to the oppression of the people. Although we only refer to the governor in the next discussion, all accountability mechanisms apply equally to the mayors as well.

### **Accountability Mechanisms**

The governor is a ruler and as such must fulfil the same strict contractual conditions as the Caliph and Assistant Caliphs, as the governor is a deputy for the Caliph in his province. This ensures only those strong in the Islamic ideology and with the capability to rule will be governors. The Caliphate is not a monarchy and so the governors are chosen based on merit and not due to family ties as unfortunately occurred during some periods of Islamic history.

The Media, Political Parties and *Mazalim* Court all play a pivotal role in accounting the governors and keeping them in check. In addition to these there are four accountability mechanisms which apply specifically to the governors. These are separation of powers, limited term of office, the Regional Assembly and continual monitoring by the Caliph and Assistant Caliphs.

### **Separation of Powers**

The Prophet Muhammad ﷺ appointed two types of governor. The first was a governor with a general mandate to rule over all affairs in his province such as the governor of Yemen, Amru bin Hazm. The second was a governor with a specific mandate to rule over some matters in his province and not others such as the appointment of Imam Ali over the judiciary in Yemen. It is mentioned in the Seerah of ibn Hisham that the Prophet Muhammad ﷺ appointed Farwa bin Musayk as a mayor of the tribes - Murad, Muzhij and Zabeed and he sent with him Khalid bin Sa'eed as governor of Sadaqah (funds).<sup>3</sup>

This action of the Prophet Muhammad ﷺ is an evidence for the Caliph having the choice to appoint either a governor with a general mandate or a specific mandate.

Although the Caliph in origin is allowed to appoint a governor with a general mandate, historically this caused great harm to the unity of the Islamic State. Muawiya, the governor of Syria who ruled with a general mandate for 22 years became very powerful and was able to challenge the authority of the fourth rightly guided Caliph Ali bin Abi Talib leading to civil war. As discussed previously during the decline of the Abbasid Caliphate the governors became semi-independent transferring their provinces from wiliyat to sultanates. Egypt and Spain went even further and actually declared themselves as Caliphates in opposition to the legitimate Caliphate of the Abbasids.

Therefore in a future Caliphate the governor should be appointed with a specific mandate over all affairs in his province except the armed forces, treasury and judiciary. This is because the armed forces are the power, the treasury is the “life blood” and the judiciary is the safeguarding of rights and the execution of penal codes. The police would be under the governor’s command in terms of execution but not administration. This means the governor can utilise the police but not appoint or dismiss the police commissioner or any other officers. Administration of the police is performed by the Internal Security Department.<sup>4</sup>

The armed forces, judiciary and treasury would be under the control of the Caliph through their respective government departments.

This separation of powers therefore removes the ability of the governor to threaten the unity of the Caliphate and commit oppression against the people in his province.

However, this separation of powers does pose a number of challenges and needs to be managed correctly. Limiting the powers of the governor too much can lead him to becoming a lame duck unable to fulfil his responsibilities of ruling.

At the beginning of the Abbasid Caliphate governors were appointed with a specific mandate without control of the armed forces, judiciary and treasury. The Caliph would appoint a separate *qadi* for the judiciary, a *saihib al-shurtah* for the army and a *sahib al-kharaj* for the treasury. While the governor was almost always an outsider with no ties to the province he was ruling the other posts of *qadi*, *saihib al-shurtah* and *sahib al-kharaj* were appointed from the local elites (wujuh) with grass roots support from the people.

Hugh Kennedy highlights this point:

Sometimes the governor himself was directly responsible for the financial administration of the province but from late Umayyad times, a separate *sahib al-kharaj* was appointed by the caliph, answerable directly to him. On occasion the *sahib al-kharaj* could be a more powerful figure in the province than the governor.<sup>5</sup>

In many ways the *saihib al-shurtah* must often have been a more important figure in the life of the province than the governor to whom he was theoretically subordinate. In contrast to the governors, the police chiefs were usually men who had roots in the province and had strong family connexions there.<sup>6</sup>

## Limited Term of Office

The Prophet Muhammad ﷺ used to appoint governors for a limited period and then remove them. No governor remained in his province for the entire duration of the Prophet Muhammad's ﷺ rule. This indicates that the governor should never be appointed permanently, but only for short periods after which he is removed. It would be best to remove him if he became established or if people became attracted to his personality. He should be removed immediately if the people complained against him through a vote of no-confidence in the Regional Assembly or House of Representatives.

Hugh Kennedy describes the terms of office during the early years of the Abbasid Caliphate.

Terms of office were usually very short. Under al-Saffah and al-Mansfir this was not so pronounced as one governor, Yazid bin Hatim, held the office for eight years, though this was exceptional. Under al-Mahdi and Harun appointments seldom lasted more than a year and on many occasions less. In the twenty-two years of al-Mansur's reign there were only eight changes of governor while in the twenty-three years of Harun's there were twenty-two. In the twelve years from 170 to 182 AH there were no less than sixteen changes.<sup>7</sup>

Although the shari'a has not specified a specific time period for the governor the civil war between the rightly guided Caliph Imam Ali and the governor of Syria Muawiya who was in power for 22 years shows the harm caused by a lengthy term of office. This is why the term of office should be limited.<sup>8</sup>

## Regional Assembly

In every province there exists a Regional Assembly (*Majlis ul-Wiliyah*) that is elected by the people of that province every five years. Those elected are representatives of the Muslim and non-Muslim (*dhimmī*) citizens of that province.

This Regional Assembly has two main functions. Firstly, it acts as an advisory body to the governor explaining the reality of the province and its problems. Secondly, it monitors the governor and his mayors and accounts them where necessary. If the majority of the Regional Assembly complain about the conduct of the governor or his mayors and pass a no-confidence motion against them, then the Caliph must remove the governor or mayor from office.<sup>9</sup>

The Prophet Muhammad ﷺ removed Al-Ala' Ibnul-Hadhrami, the governor of Bahrain, because a delegation of *Abd Qays* (the tribe of Bahrain) complained about him. The second rightly guided Caliph Umar ibn Al-Khattab used to dismiss governors when the people complained against

them. Umar dismissed the righteous companion Sa'd Ibn Abi Waqqas because the people complained about him. Umar remarked, **"I did not remove him because of incompetence or betrayal."**<sup>10</sup>

The establishment of a Regional Assembly with the power to have the governor or mayors removed from office, will ensure the governor and mayors serve the interests of the people and not their own selfish interests.

### **Monitoring by Caliph and Assistant Caliphs**

The Caliph should inquire about the actions of the governor and he should monitor them closely. He should also appoint someone who can check their state of affairs and carry out inspections. Assistant Caliphs are appointed and given responsibility for one or more provinces of the state, so they can supervise the governors and assist them where necessary.

The Caliph should also meet with all of the governors or some of them from time to time and listen to the opinions of the Regional Assembly members.

The Prophet Muhammad ﷺ would examine the governors when appointing them, as he did with Mu'az and Abu Moussa. He ﷺ used to explain to them how they should conduct their duties, as he did with Amr bin Hazm. He ﷺ also drew their attention to some important matters as he did with Aban bin Sa'id when he appointed him governor over Bahrain and said to him: **"Look after Abd Qays and honour their leaders."**<sup>11</sup>

Likewise it has also been confirmed that he ﷺ used to hold the governors accountable, inspect their situation and listen to news brought to him about them.

He ﷺ used to ask the governors to account for the revenues and expenses they had spent.

Al-Bukhari and Muslim narrated on the authority of Abu Humaid Al-Sa'idi who said: "The Messenger of Allah ﷺ appointed Ibnul-Utbiyya as mayor in charge of the Sadaqat of Banu Saleem. When he returned back to the Prophet ﷺ and he accounted him, he said: **'This is for you and (this is a gift) that was presented to me.'** So the Messenger of Allah ﷺ said: **'Why did you not remain in your father's and mother's home so that your gift comes to you if you spoke the truth.'**

Then the Messenger of Allah ﷺ stood on the pulpit, addressed the people praised, Allah and said; **'What about a State official whom I give an assignment and who comes and says; 'This is for you and this has been presented to me as a gift?' Why didn't he remain in the house of his father or the house of his mother so that his gift be**

presented to him if he is truthful? By Allah, any one of you will not take anything from it (Sadaqah) unlawfully but will bring it on the Day of Judgment, carrying on his neck a camel that will be growling, or a cow that will be bellowing or a sheep that will be bleating.’ Then he raised his hands so that I could see the whiteness of his armpits. Then he said twice; ‘O Allah, I have conveyed your command.’”<sup>12</sup>

‘Umar bin al-Khattab when he was Caliph used to closely monitor the governors, and he appointed Muhammad Ibn Maslama to examine their state of affairs and inspect them.

‘Umar used to gather the governors during the Hajj season to review their performance and listen to the complaints of their subjects about them. He also used to discuss with them the affairs of their provinces and ask about their own conditions.

It has been reported that ‘Umar once said to the people around him: **‘Would you say that my duty would be fulfilled if I appointed over you the best from amongst you, and ordered him to be just?’** They said; **‘Yes.’** He said; **‘No. Not until I had checked his performance, and seen whether or not he did what I had ordered him to do.’**”<sup>13</sup>

‘Umar was known to be strict when accounting the governors and the mayors. He would even remove some of them on just a suspicion without conclusive evidence. He even used to remove a governor on the slightest doubt that did not even reach the level of suspicion. He was asked about this one day and he said: **‘It is easy to swap an Ameer for another so as to amend the people’s affairs.’**”<sup>14</sup>

Therefore, the governor’s conduct will be closely monitored and scrutinised by the Caliph, the Assistant Caliphs, *Mazalim* Court and Regional Assembly. Additionally the political parties and media will play their part in exposing any corruption by the governor and his officials within the province.



## CONCLUSION

The Muslim world is crying out for an alternative, accountable system that looks after the interests of its people. The west is pushing democracy and the secular civil state as this alternative system, but democracy is an alien, man-made system that has no place in the Muslim world.

The Caliphate is the only system of government that successfully ruled the Muslim world for 1300 years. Since the destruction of the Caliphate the Muslim world has tried all types of governing systems.

After decades of brutal suppression some elements of accountability have now started to appear in the Muslim world post Arab Spring. Even so, we must remember as Muslims the accountability mechanisms, institutions and what issues are open to be accounted on, must be based on *shari'a* alone. Regardless of the greater accountability offered in democratic civil states post Arab Spring, the only acceptable ruling system is the Caliphate. Benefit and harm are not valid criteria to judge ruling systems. Only the halal and haram defines what is a *husn* (good) ruling system and what is a *qubh* (bad) ruling system. Our minds may perceive benefit in limiting the ruler's term of office to 4 years as we see in the man-made Republican System, but this benefit is rejected because it contradicts the *shari'a* which imposes no time limit on the Caliph.

وَعَسَىٰ أَنْ تَكْرَهُوا شَيْئًا وَهُوَ خَيْرٌ لَّكُمْ ۖ وَعَسَىٰ أَنْ تُحِبُّوا شَيْئًا وَهُوَ شَرٌّ لَّكُمْ ۗ وَاللَّهُ يَعْلَمُ  
وَأَنْتُمْ لَا تَعْلَمُونَ

It may be that you hate something when it is good for you and it may be that you love something when it is bad for you. Allah knows and you do not know.<sup>1</sup>

It's time now for Muslims to return back to the Caliphate so they can bring the Muslim world out of its darkness and in to the light of Islam under the shade of the Caliphate.

الرَّ كِتَابٌ أَنْزَلْنَاهُ إِلَيْكَ لِتُخْرِجَ النَّاسَ مِنَ الظُّلُمَاتِ إِلَى النُّورِ بِإِذْنِ رَبِّهِمْ إِلَى صِرَاطٍ الْعَزِيزِ  
الْحَمِيدِ

*Allf Laam Ra.* We have sent down to you this Book in order that you bring mankind from darkness to the light by the permission of your Lord, to the Path of the Almighty, the Praised.<sup>2</sup>

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# NOTES

## *Introduction*

<sup>1</sup> <http://news.bbc.co.uk/1/hi/world/asia-pacific/595781.stm>

<sup>2</sup> <http://www.al-monitor.com/pulse/originals/2015/03/egypt-endowments-decision-close-worship-places.html>

<sup>3</sup> <http://www.ibtimes.com/egypt-ban-muslim-brotherhood-books-others-contradict-teachings-islam-1983681>

<sup>4</sup> <http://www.theguardian.com/world/2003/feb/27/usa.iraq2>

<sup>5</sup> <http://www.pewforum.org/files/2013/04/worlds-muslims-religion-politics-society-full-report.pdf>

<sup>6</sup> <http://www.independent.co.uk/voices/comment/isis-are-barbarians--but-the-caliphate-is-an-ancient-muslim-ideal-10365201.html>

## *Chapter 1:*

### *POWER TENDS TO CORRUPT; ABSOLUTE POWER CORRUPTS ABSOLUTELY*

<sup>1</sup> <http://www.acton.org/research/lord-acton-quote-archive>

<sup>2</sup> Charles de Secondat, Baron de Montesquieu, 'The Spirit of Laws,' Translated by Thomas Nugent, revised by J. V. Prichard, Based on an public domain edition published in 1914 by G. Bell & Sons Ltd., London

<sup>3</sup> Abdulwahab El-Affendi, 'Who needs an Islamic State?' p. 127

<sup>4</sup> Holy Qur'an, Chapter 2, Surah al-Baqara, Verse 30

## *Chapter 2:*

### *AUTHORITY TO RULE*

<sup>1</sup> Taqiuddin an-Nabhani, 'The Ruling System in Islam,' p. 72

<sup>2</sup> Ibid, p. 55

<sup>3</sup> Ibid, p. 122

<sup>4</sup> Sahih Muslim 1844

<sup>5</sup> Muhammad Asad, 'The Principles of State and Government in Islam,' p. 41

<sup>6</sup> Taqiuddin an-Nabhani, 'The Islamic Personality,' Volume 2, p. 103

<sup>7</sup> Sahih Muslim

<sup>8</sup> Sahih Muslim, Musnad Ahmed

<sup>9</sup> Sahih Muslim

<sup>10</sup> Ibid

<sup>11</sup> Abdelwahab El-Affendi, Op.cit.

<sup>12</sup> Aisha Bewley, 'Mu'awiya Restorer of the Muslim Faith,' p. 31

<sup>13</sup> 'Biography of Sultan Abdul Hameed the Second and the fall of The Islamic Khilafa,' <http://www.ummah.net/sultan/>

<sup>14</sup> King James I, 'Speech Before Parliament,' 21 March 1609, <http://www.luminarium.org/sevenlit/james/1609speech.htm>

<sup>15</sup> Taqiuddin an-Nabhani, 'The System of Islam,' p. 62

<sup>16</sup> Sahih Muslim

<sup>17</sup> Hizb ut-Tahrir, 'An Introduction to the Constitution and its obligation' Article 33, p. 100

<sup>18</sup> Ibid

<sup>19</sup> Ibid

<sup>20</sup> Sahih Muslim

<sup>21</sup> Ibid

<sup>22</sup> Taqiuddin an-Nabhani, 'The Ruling System in Islam,' p. 122

<sup>23</sup> Taqiuddin an-Nabhani, 'The Islamic Personality,' Volume 1, Chapter: The reality of Taqleed

<sup>24</sup> Taqiuddin an-Nabhani, 'The Ruling System in Islam,' p.90

### *Chapter 3: WHO WILL BE THE CALIPH?*

<sup>1</sup> Abu Luqman Fathullah, 'The Sixty Sultaniyya: A collection of narrations relating to Ruling,' p. 10

<sup>2</sup> Ibn Khaldoon, 'Muqaddimat,' p. 109

<sup>3</sup> Abu Dawud and Al-Tirmidhi

<sup>4</sup> Bukhari, narrated by Abu Hurayra

<sup>5</sup> Bukhari & Muslim

<sup>6</sup> Al-Nasa'i, reported by Ibn Khuzaymah and Ibn Hibban

<sup>7</sup> Jalal ad-Din as-Suyuti, 'The history of the Khalifahs who took the right way,' p. 140

<sup>8</sup> Taqiuddin an-Nabhani, 'The Ruling System in Islam,' p. 89

### *Chapter 4: EXECUTIVE BRANCH*

<sup>1</sup> Taqiuddin an-Nabhani, 'The Ruling System in Islam,' p. 144

<sup>2</sup> Ibid, p. 103

<sup>3</sup> Michael A. Fletcher, 'Bush Signs Terrorism Measure,' The Washington Post, 18 October 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/10/17/AR2006101700190.html>

<sup>4</sup> Tony Blair, Downing Street Press Conference, 5 August 2005, <http://www.pm.gov.uk/output/Page8041.asp>

<sup>5</sup> Sahih Bukhari, Volume 4, Book 56, Number 681

### *Chapter 5: LEGISLATIVE BRANCH*

<sup>1</sup> C.A. Nallino, Appunti sulla natura del 'Califfato' in genere e sul presunto 'Califfato Ottomano', p. 200

<sup>2</sup> Thomas W. Arnold, 'The Caliphate,' p. 53

<sup>3</sup> Bible, Matthew 22:21

<sup>4</sup> Holy Qur'an, Chapter 6, Surah al-An'am, Verse 38

<sup>5</sup> Holy Qur'an, Chapter 6, Surah al-An'am, Verse 57

<sup>6</sup> Taqiuddin an-Nabhani, 'The System of Islam,' p.95

<sup>7</sup> Holy Qur'an, Chapter 33, Surah Al-Ahzaab, Verse 36

- <sup>8</sup> King James I, 'Speech Before Parliament,' 21 March 1609, <http://www.luminarium.org/sevenlit/james/1609speech.htm>
- <sup>9</sup> Hizb ut-Tahrir, 'An Introduction to the Constitution and its obligation,' Article 12, p. 34
- <sup>10</sup> C.H. Becker, 'Islampolitik,' Die Welt des Islams, iii, p. 103, Berlin, 1915
- <sup>11</sup> Hizb ut-Tahrir, 'An Introduction to the Constitution and its obligation,' p. 111
- <sup>12</sup> Brian Baird, 'We Need to Read the Bills,' Washington Post, 27 November 2004, <http://www.washingtonpost.com/wp-dyn/articles/A15620-2004Nov26.html>
- <sup>13</sup> Holy Qur'an, Chapter 73, Surah Al-Muzzammil, Verse 20
- <sup>14</sup> Noah Feldman, 'The Fall and Rise of the Islamic State,' p. 61
- <sup>15</sup> Abu'l-Hasan al-Mawardi, 'The Laws of Islamic Governance,' p. 11
- <sup>16</sup> Abdullahi A. An-Na'im, 'Shari'a and Positive Legislation: is an Islamic State Possible or Viable?,' p. 1
- <sup>17</sup> Sahih Muslim 2361
- <sup>18</sup> Noah Feldman, Op.cit., p. 43
- <sup>19</sup> Noah Feldman, Op.cit., p. 147
- <sup>20</sup> Abdelwahab El-Affendi, Op.cit., p. 140
- <sup>21</sup> Holy Qur'an, Chapter 33, Surah Al-Ahzaab, Verse 36
- <sup>22</sup> Oxford English Dictionary

## *Chapter 6:* *JUDICIAL BRANCH*

- <sup>1</sup> Taqiuddin an-Nabhani, 'The Ruling System in Islam,' p. 202
- <sup>2</sup> Ibid, p. 205
- <sup>3</sup> Ibid, p. 208
- <sup>4</sup> Al-Baihaqqi
- <sup>5</sup> Abu'l-Hasan al-Mawardi, Op.cit., p. 111
- <sup>6</sup> Abu Dawood
- <sup>7</sup> A Legal framework primarily used in the US for discussing the judicial branch of government
- <sup>8</sup> Taqiuddin an-Nabhani, 'The Ruling System in Islam,' p. 221
- <sup>9</sup> Al-Maqreezi, 'Al-Sulook Ila Ma'arifati Douwal Al-Mulook,' (The way to know the States of the kings)
- <sup>10</sup> Nasser O. Rabbat, 'The Ideological Significance of the Dar al- Adl in the Medieval Islamic Orient,' International Journal of Middle East Studies, Vol. 27, No. 1 (Feb., 1995), pp. 3-28
- <sup>11</sup> Abu Dawood, Book 24, Number 3566: Narrated Buraydah ibn al-Hasib
- <sup>12</sup> Baihaqqi, Darqutni, Tabarani
- <sup>13</sup> Abu'l-Hasan al-Mawardi, Op.cit., p. 116
- <sup>14</sup> Hizb ut-Tahrir, 'An Introduction to the Constitution and its obligation' Article 15, p. 64
- <sup>15</sup> CBS News, 27 December 2006, <http://www.cbsnews.com/stories/2006/12/27/politics/main2299880.shtml>
- <sup>16</sup> Taqiuddin an-Nabhani, 'The Ruling System in Islam,' p. 212
- <sup>17</sup> Ibid.
- <sup>18</sup> Jalal ad-Din as-Suyuti, Op.cit., p. 139

<sup>19</sup> Ibid, p. 193

<sup>20</sup> Abu'l-Hasan al-Mawardi, Op.cit., p. 128

## *Chapter 7:* *HOUSE OF REPRESENTATIVES*

<sup>1</sup> Holy Qur'an, Chapter 3, Surah al-Imran, Verse 159

<sup>2</sup> Holy Qur'an, Chapter 16, Surah An-Nahl, Verse 43

<sup>3</sup> Hizb ut-Tahrir, 'An Introduction to the Constitution and its obligation,' Article 109

<sup>4</sup> Khilafah.com, 'Q&A benefiting from public property in the Khilafah,' <http://www.khilafah.com/qaa-benefiting-from-public-property-in-the-khilafah>

<sup>5</sup> Hizb ut-Tahrir, 'An Introduction to the Constitution and its obligation,' Article 111

<sup>6</sup> Hizb ut-Tahrir, 'The Institutions of State in the Khilafah,' p. 142

<sup>7</sup> Seerah of Ibnu Hisham from Ka'ab bin Malik.

<sup>8</sup> Hizb ut-Tahrir, 'An Introduction to the Constitution and its obligation,' Article 106

## *Chapter 8:* *POLITICAL PARTIES*

<sup>1</sup> Holy Qur'an, Chapter 3, Surah aal-Imran, Verse 104

<sup>2</sup> Taqiuddin an-Nabhani, 'The Ruling System in Islam,' p. 297

<sup>3</sup> Human Rights Watch, 'Uzbekistan: Two Brutal Deaths in Custody,' 10 August 2002, <http://hrw.org/press/2002/08/uzbek081002.htm>

<sup>4</sup> Holy Qur'an, Chapter 15, Surah al-Hijr, Verse 94

<sup>5</sup> Taqiuddin an-Nabhani, 'The Islamic State', p. 8

<sup>6</sup> Ibn Qutaibah, 'Uyun al-Akhbar, 1/55 and also Anwar al-Awlaki, 'Life of Umar bin al-Khattab'

<sup>7</sup> Holy Qur'an, Chapter 3, Surah aal-Imran, Verse 103

<sup>8</sup> Holy Qur'an, Chapter 3, Surah aal-Imran, Verse 105

<sup>9</sup> [http://library.islamweb.net/newlibrary/display\\_book.php?idfrom=430&idto=430&bk\\_no=61&ID=436](http://library.islamweb.net/newlibrary/display_book.php?idfrom=430&idto=430&bk_no=61&ID=436)

<sup>10</sup> Ali Muhammad As-Sallabi, 'The Biography of Uthman ibn Affan,' p. 470

## *Chapter 9:* *MEDIA*

<sup>1</sup> Owen Jones, 'The Establishment: And how they get away with it,' Mediaocracy Chapter

<sup>2</sup> Hizb ut-Tahrir, 'The Institutions of State in the Khilafah,' Chapter al-I'laam

<sup>3</sup> Musnad Ahmad on the authority of Huzayfah.

<sup>4</sup> Noam Chomsky, 'Manufacturing Consent: Noam Chomsky and the Media,' 1992

<sup>5</sup> Agreed upon. Narrated by Abu Hurayra.

<sup>6</sup> Hizb ut-Tahrir, 'American Campaign to Suppress Islam,' p. 23

<sup>7</sup> Hadith At-Tirmidhi

<sup>8</sup> Hadith Abu Dawud

<sup>9</sup> Hadith Bukhari and Muslim

<sup>10</sup> Hadith Bukhari and Muslim

<sup>11</sup> Hizb ut-Tahrir, 'The Essential Elements of the Islamic Disposition', p. 143

<sup>12</sup> Sahih al-Bukhari 453

<sup>13</sup> Dr Ali Muhammad As-Sallaabee, 'The Noble Life of the Prophet ﷺ', p. 1214

<sup>14</sup> El-Affendi, Abdelwahab, 'Al-Shu'ra' kanu Ajhizat l'lam al-Arab' (Poets were Arab Media Organs), Al-Arabi, December 1976.

## *Chapter 10:* *ACCOUNTING THE GOVERNORS*

<sup>1</sup> Hizb ut-Tahrir, 'The Institutions of State in the Khilafah,' p. 72

<sup>2</sup> Sahih Muslim 1847

<sup>3</sup> Hizb ut-Tahrir, 'The Institutions of State in the Khilafah,' p. 74

<sup>4</sup> Taqiuddin an-Nabhani, 'The Ruling System in Islam,' p. 196

<sup>5</sup> Hugh Kennedy, 'Central Government and Provincial Élites in the Early 'Abbāsīd caliphate,' <http://www.jstor.org/stable/616294> p. 33

<sup>6</sup> Ibid, p. 35

<sup>7</sup> Ibid, p. 32

<sup>8</sup> Taqiuddin an-Nabhani, 'The Ruling System in Islam,' p. 198

<sup>9</sup> Hizb ut-Tahrir, 'The Institutions of State in the Khilafah,' p. 147

<sup>10</sup> Ibid, p. 73

<sup>11</sup> Ibid, p. 76

<sup>12</sup> Bukhari and Muslim

<sup>13</sup> Hizb ut-Tahrir, 'The Institutions of State in the Khilafah,' p. 76

<sup>14</sup> Taqiuddin an-Nabhani, 'The Ruling System in Islam,' p. 201

## *CONCLUSION*

<sup>1</sup> Holy Qur'an, Chapter 2, Surah Baqarah, Verse 216

<sup>2</sup> Holy Qur'an, Chapter 14, Surah Ibrahim, Verse 1



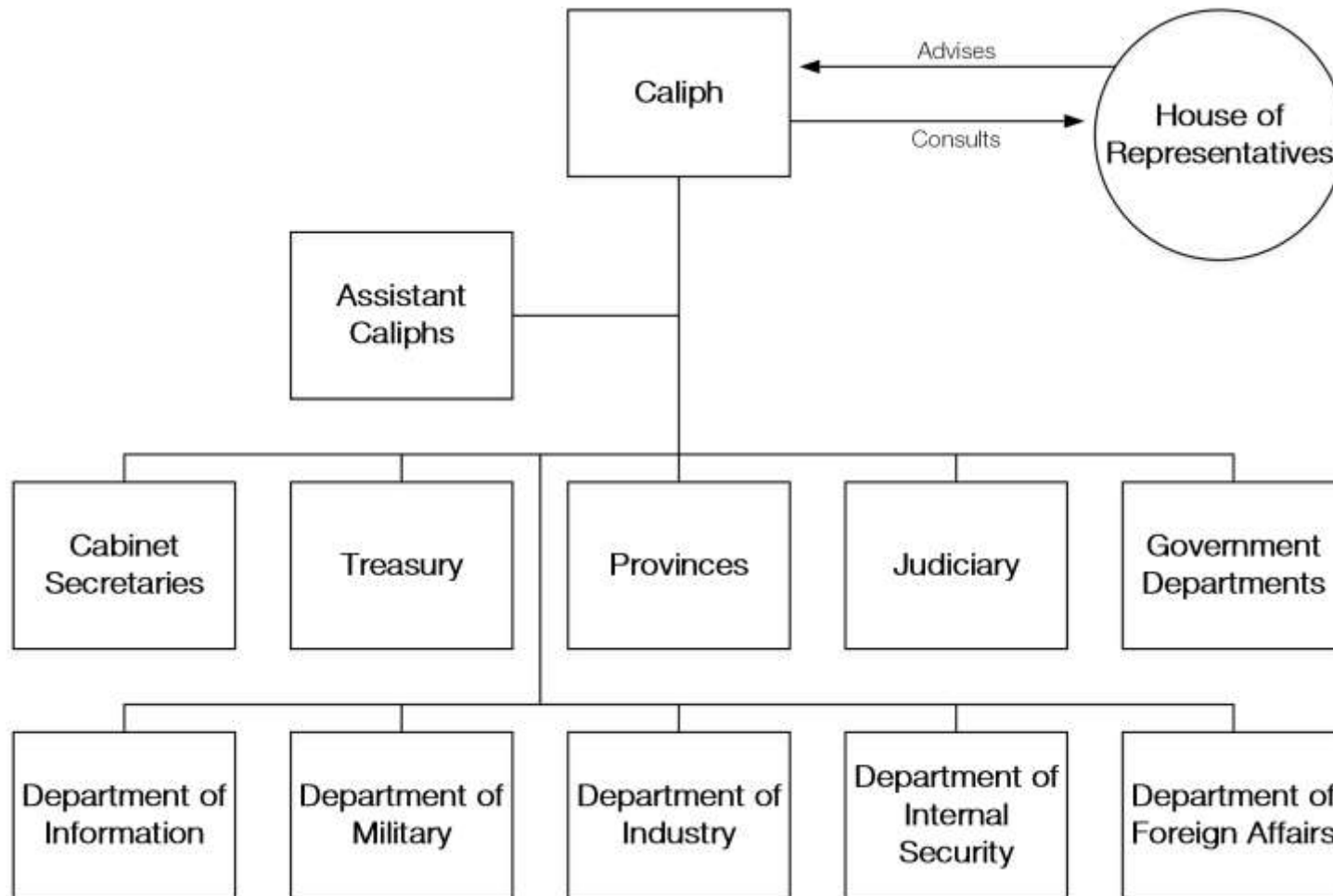
## APPENDIX I. COUNTERBALANCES TO THE EXECUTIVE POWER OF THE CALIPH

The following table summarises the counterbalances within the Caliphate to the executive power of the Caliph.

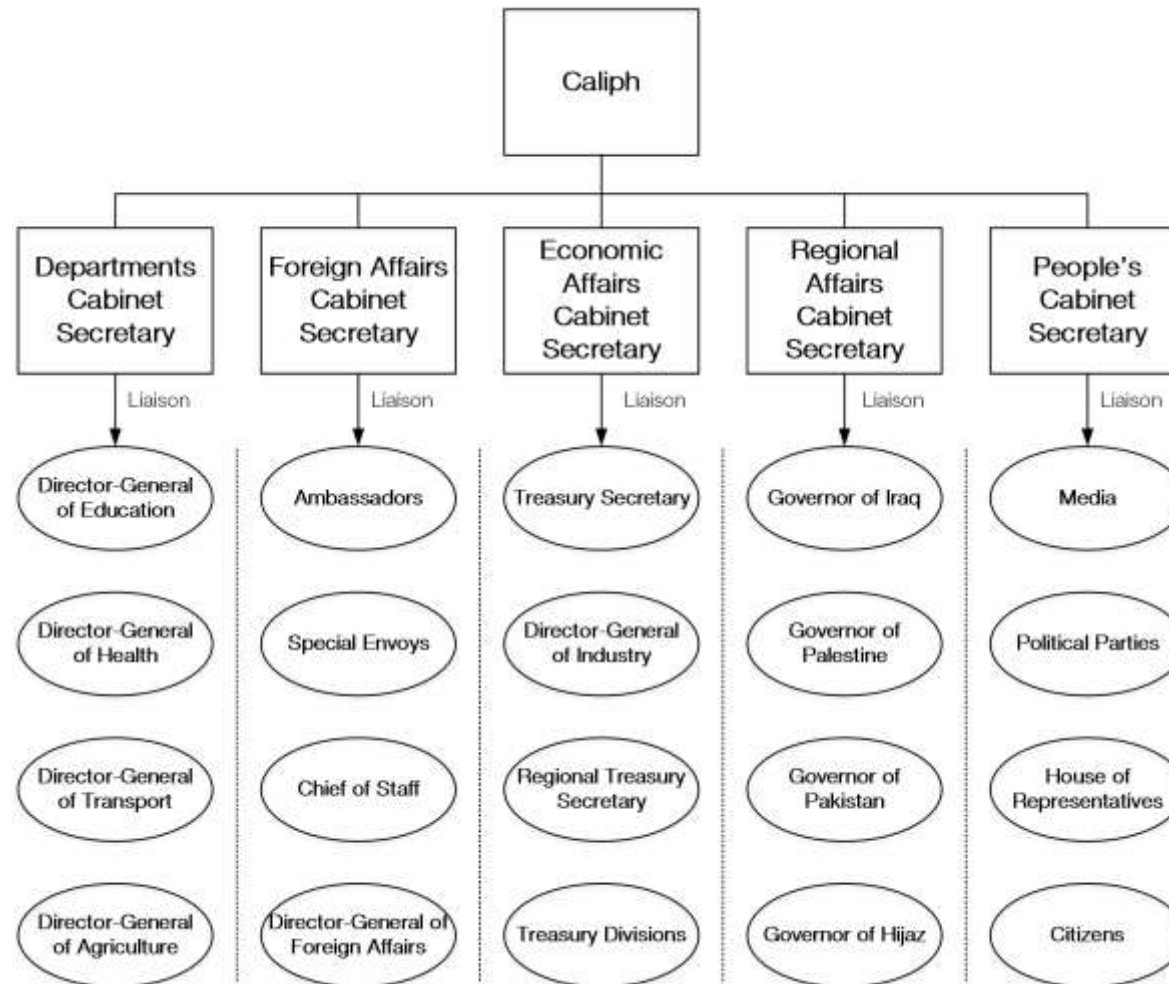
Caliph	Shari'a	<i>Majlis</i>	<i>Mazalim</i>
He is the one who adopts the Shari'a rules derived by a correct Ijtihad from the Book of Allah and the Sunnah of His messenger necessary for managing the affairs of the Ummah since when he adopts them they are enacted, at which point they become laws which are obligatory to obey, and it is not permitted to oppose them.	The Caliph is restricted in what he adopts by shari'a. He is forbidden from adopting any law that is not soundly deduced from the divine texts (ijtihad). He is restricted to the laws he has adopted and to the method of deducting rules (istinbat) that he has chosen.	The Caliph has the right to refer to the <i>Majlis</i> the laws and rules which he wants to adopt. The Muslim members of the <i>Majlis</i> have the right to debate them and voice their opinions regarding those rules.	If the <i>Majlis</i> disagrees with the Caliph regarding the laws validity of deduction or divine evidence in respect to the basis of legislation (usul) adopted in the State, then the decision will be referred to the court of <i>Mazalim</i> , and the court's verdict in this matter is binding.
He is responsible for governing the domestic and foreign affairs of the State, and he takes command of the leadership of the Army; he has the right to announce war, to sign peace treaties, truces and all other types of agreements.	The Caliph is restricted in what he adopts by shari'a. He is forbidden from adopting any law that is not soundly deduced from the divine texts (ijtihad). He is restricted to the laws he has adopted and to the method of deducting rules (istinbat) that he has chosen.	The <i>Majlis</i> has the right to hold the Caliph accountable on all matters that take place within the State, whether these were related to domestic or foreign affairs, financial affairs or military matters. The opinion of the <i>Majlis</i> is binding if the majority's opinion in such matters is binding (non-technical administrative laws), and it is not binding if the majority's opinion in such matters is not binding (technical administrative laws).	If the <i>Majlis</i> and the Caliph differed about the legitimacy of an action that had already been executed the matter should be referred to the court of <i>Mazalim</i> to settle the question. Its verdict on the matter is binding.
He is the one who can accept or refuse to meet foreign ambassadors, and appoint and remove the Muslims ambassadors.	The Caliph must abide by the shari'a rules related to foreign affairs.	The <i>Majlis</i> has the right to hold the Caliph accountable on all matters that take place within the State including foreign affairs. The opinion of the <i>Majlis</i> is not binding.	If the <i>Majlis</i> and the Caliph differed about the legitimacy of an action that had already been executed the matter should be referred to the court of <i>Mazalim</i> to settle the question. Its verdict on the matter is binding.

Caliph	Shari'a	Majlis	Mazalim
He is the one who appoints and removes the assistants and governors. They are all responsible to him as they are responsible to the <i>Majlis</i> .	The assistants, governors and mayors must fulfil the contractual conditions defined by shari'a.	The <i>Majlis</i> has the right to express discontentment towards the assistants, governors or mayors. Its opinion in such a case would be binding and the Caliph should dismiss them at once. If the opinion of the <i>Majlis</i> differed from the opinion of the regional assembly of the concerned province regarding contentment and discontent of the governors and mayors, the opinion of the <i>Majlis</i> of the province takes precedence.	The <i>Mazalim</i> Court has the authority to investigate any corruption connected with officials of the State.
He is the one who appoints and removes the Chief Justice as well as the other judges excluding the judge of <i>Mazalim</i> Court, where he appoints him, but he is restricted regarding his dismissal as is explained in the chapter on judiciary. He also appoints the managers of the administration departments, army commanders, chiefs of staff, and the commanders in chief; they are all answerable to him and not to the <i>Majlis</i> ul-Ummah.	All officials appointed in the state must fulfil the contractual conditions defined by shari'a. The <i>Mazalim</i> judge cannot be removed if he is in the process of investigating the Caliph.	No counterbalance.	The <i>Mazalim</i> Court ensures all appointments of officials are according to the shari'a rules adopted by the state. It has the authority to investigate any corruption connected with officials of the State.
He is the one who adopts the Shari'a laws which are drafted according to the budget of the State, and decides the sections of the budget and the amount given to each aspect, irrespective to whether it was related to revenue or expenditure.	All revenues and expenditures of the state must conform to the shari'a economic rules.	The Caliph has to consult the <i>Majlis</i> and the <i>Majlis</i> has the right to advise him in the practical matters and actions related to discharging the affairs of the domestic policy that do not require deep conceptual research and serious consideration. These are the provision of the necessary services so as to enjoy the tranquillity in life in terms of ruling, education, health, economy, trade, industry, agriculture and the like.	The <i>Mazalim</i> Court has the authority to investigate the imposition of unjust taxes and expenditure on areas forbidden by shari'a.

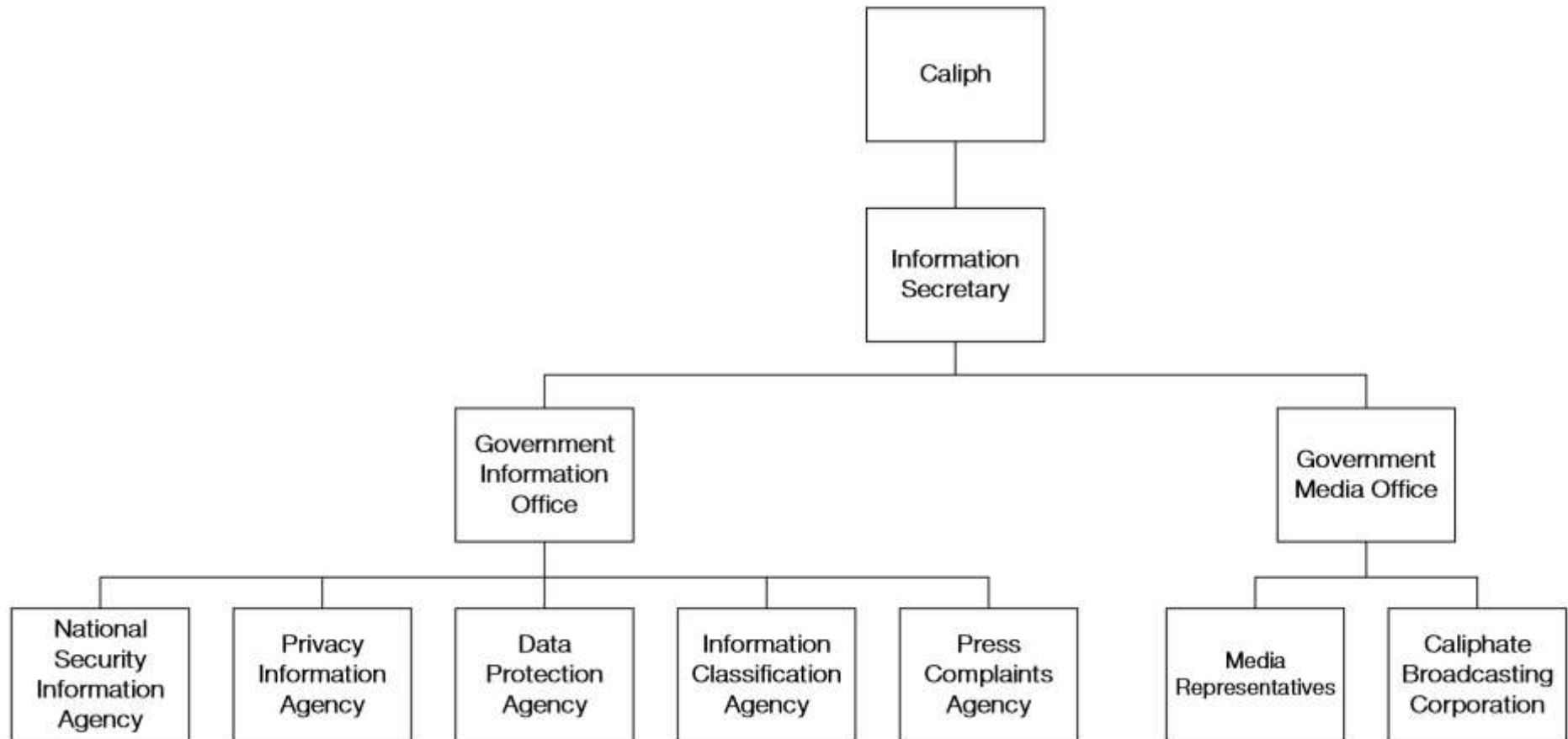
## APPENDIX II. CALIPHATE ORGANISATION CHART



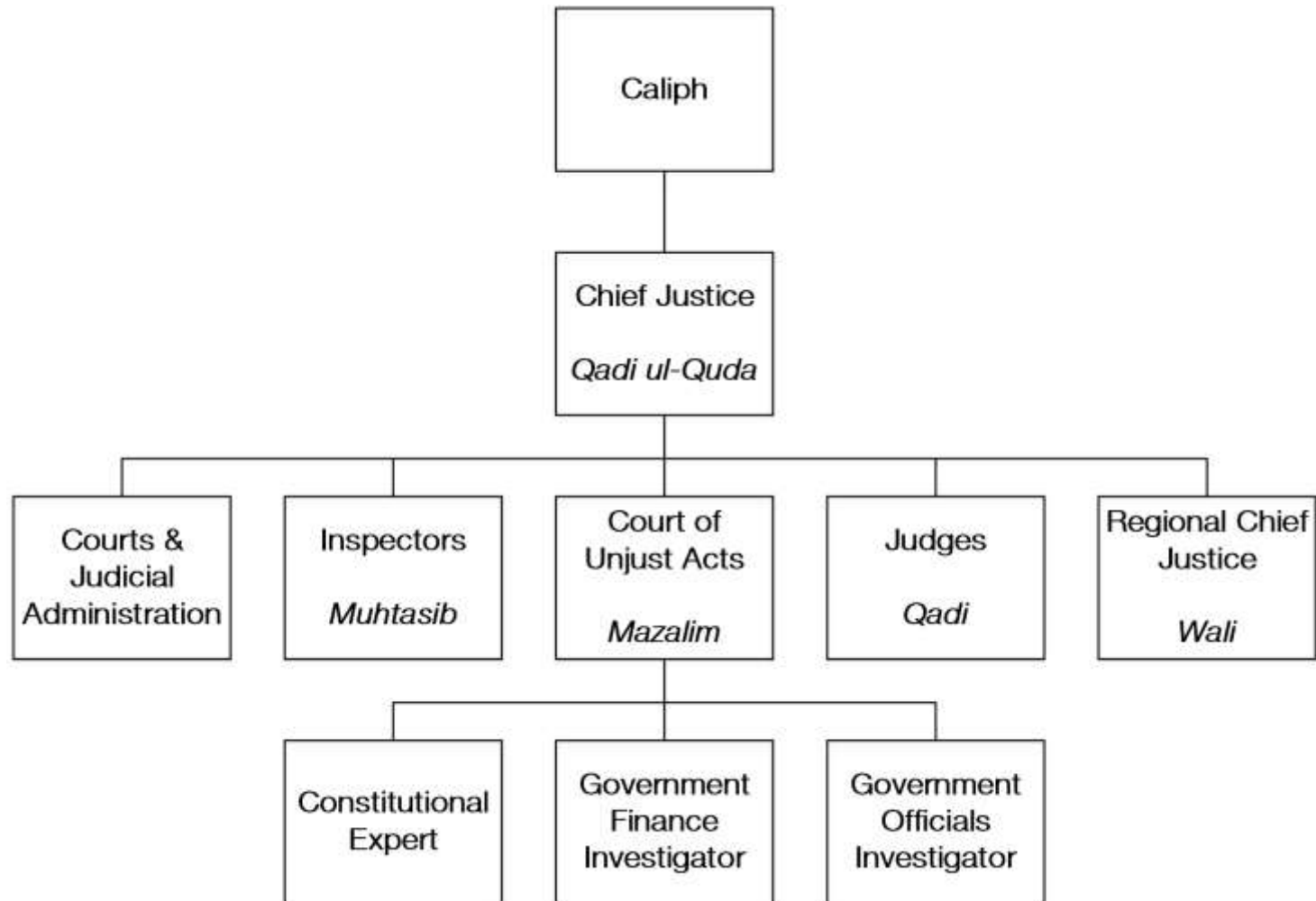
## CABINET SECRETARIES



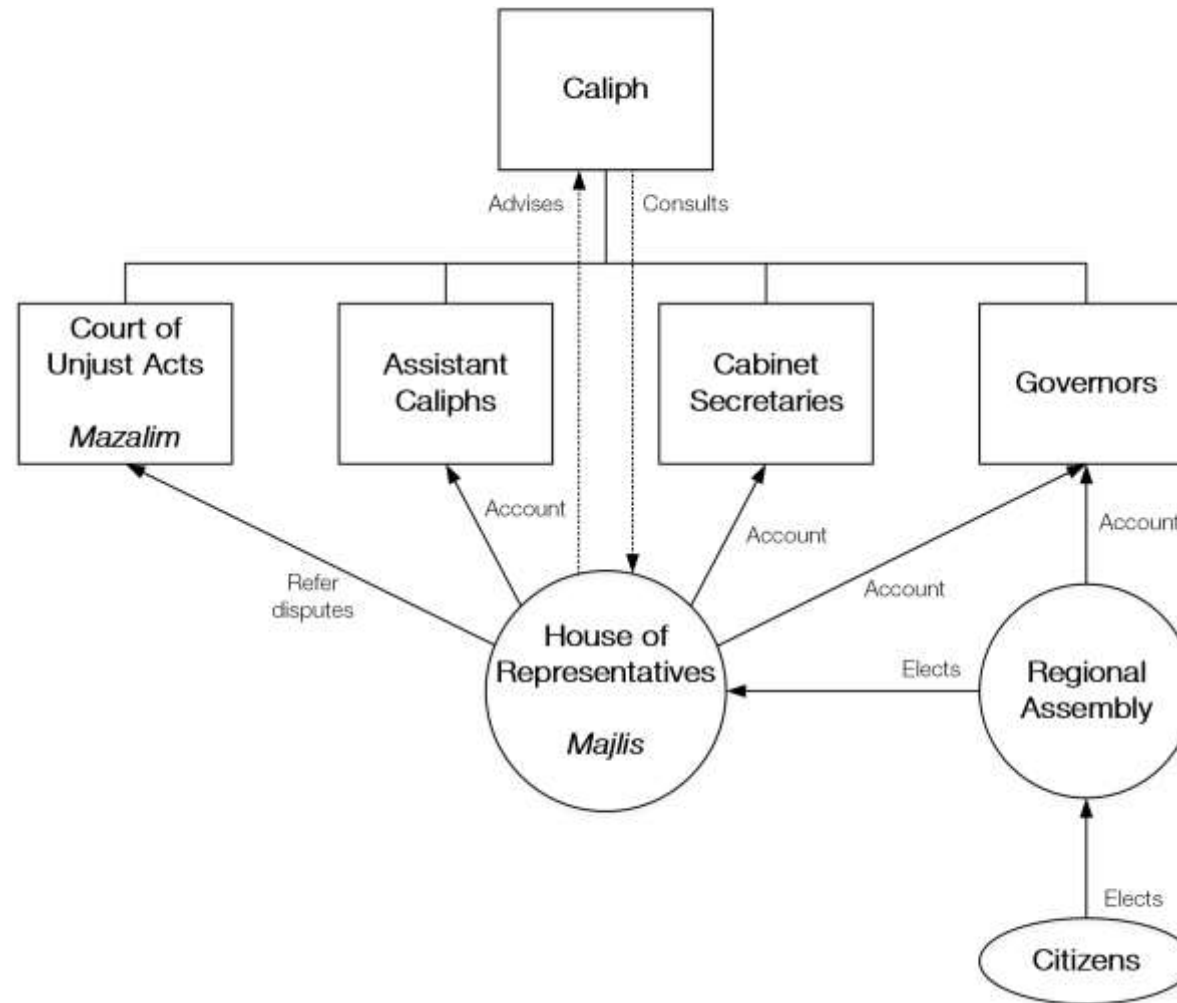
## INFORMATION DEPARTMENT



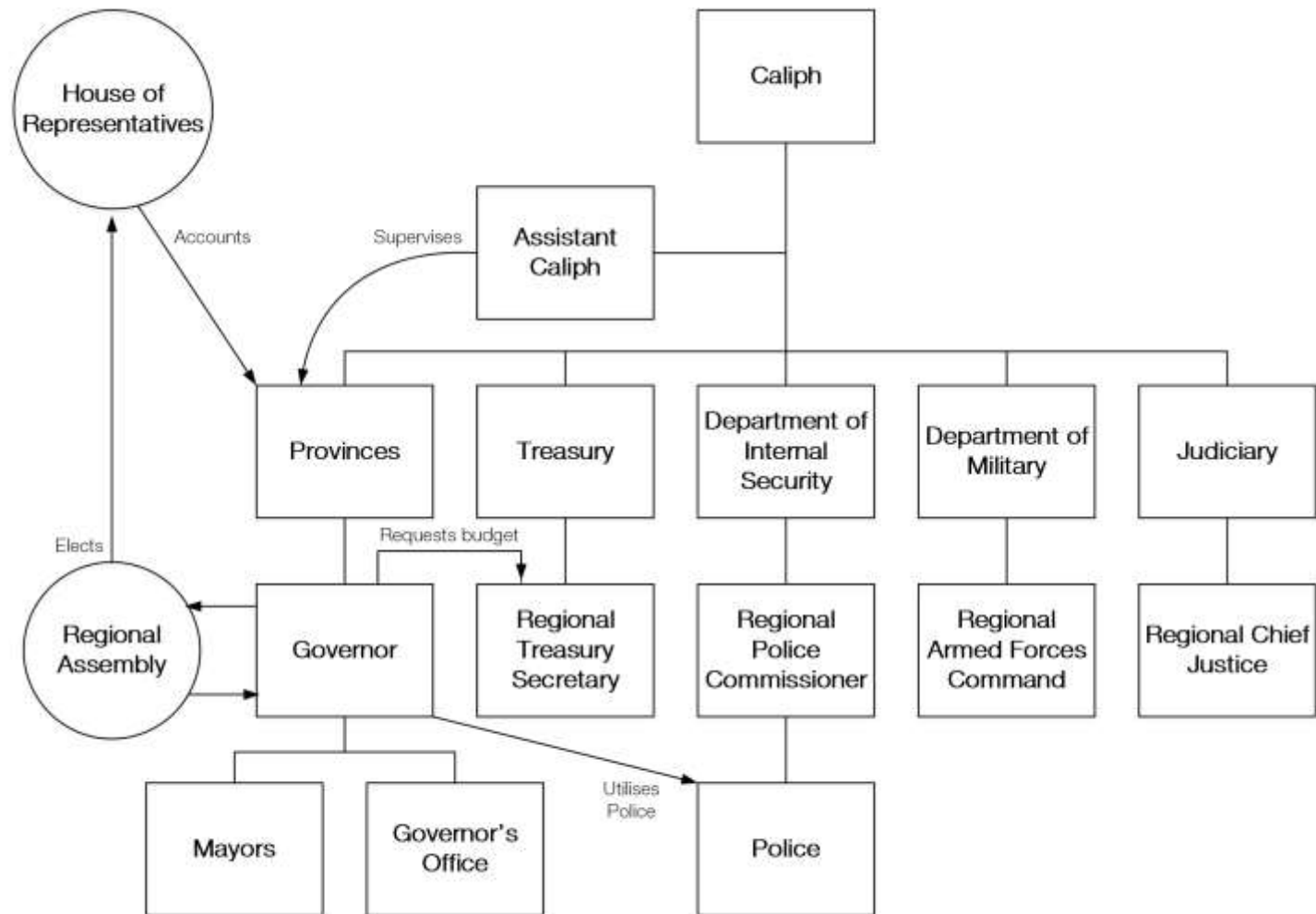
## JUDICIARY



## HOUSE OF REPRESENTATIVES



## GOVERNORS

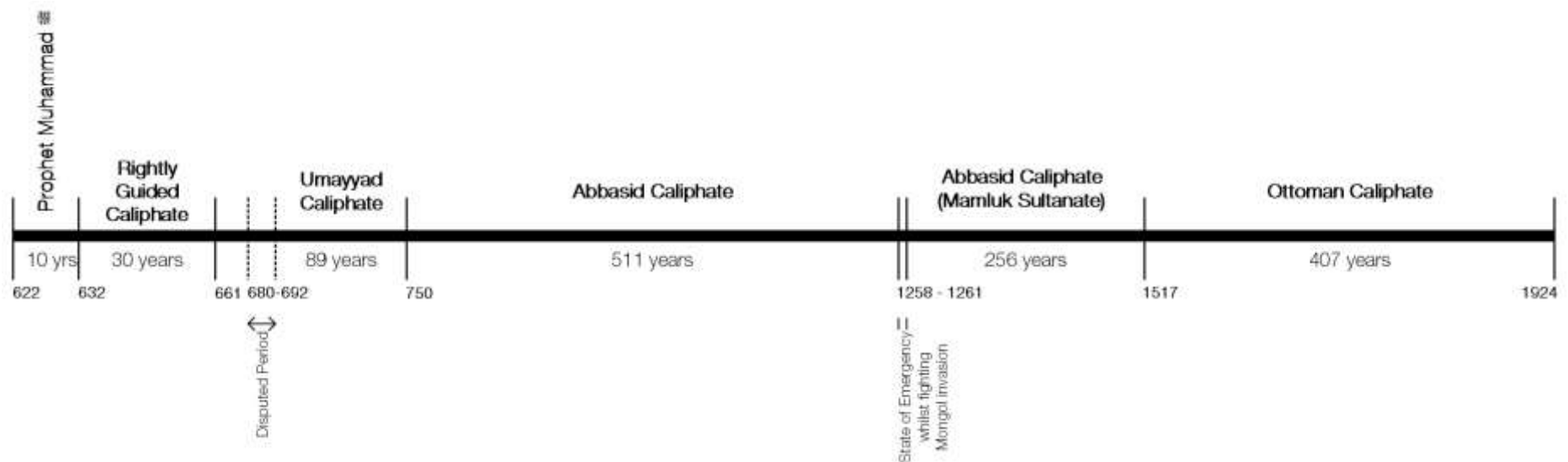




### APPENDIX III. HISTORY OF THE CALIPHS TIMELINE

The Prophet Muhammad ﷺ said:

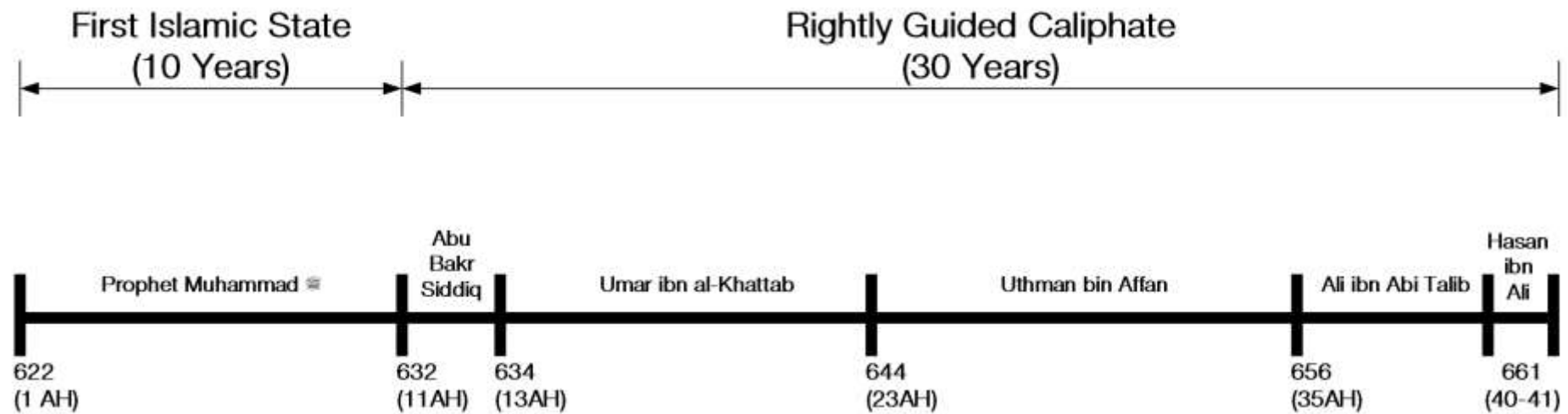
“There will be Prophethood for as long as Allah wills it to be, then He will remove it when He wills, then there will be Caliphate on the Prophetic method and it will be for as long as Allah wills, then He will remove it when He wills, then there will be biting Kingship for as long as Allah Wills, then He will remove it when He wills, then there will be oppressive kingship for as long as Allah wills, then he will remove it when He wills, and then there will be Caliphate upon the Prophetic method,” and then he remained silent. (Ahmed)



## RIGHTLY GUIDED CALIPHS (30 YEARS)

The Prophet Muhammad ﷺ said:

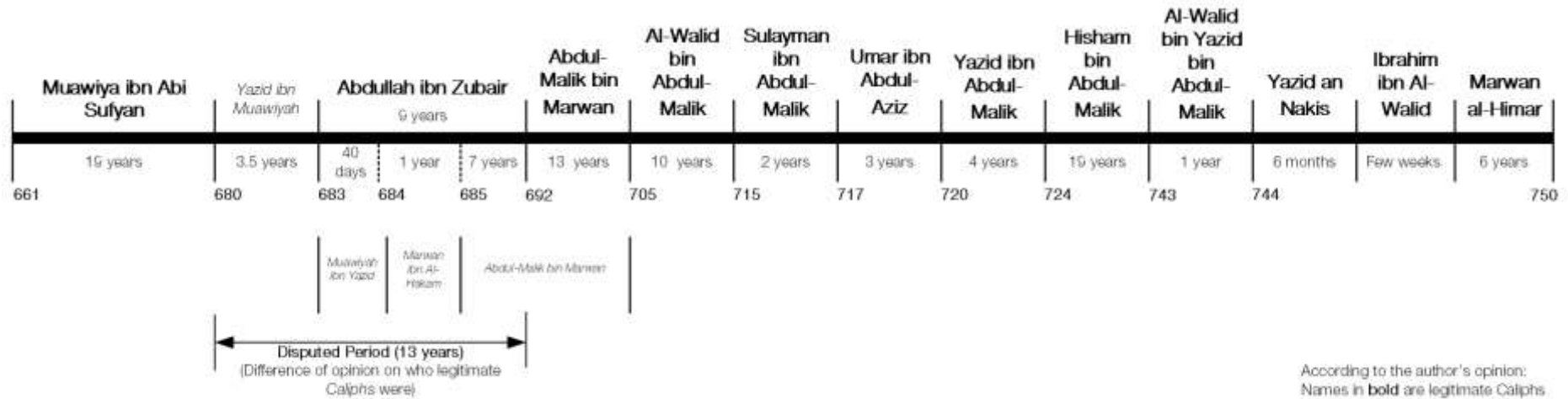
"The Caliphate in my Ummah after me will be for thirty years. Then after that there will be *Mulkan 'aduudan* (hereditary rule)." (At-Tirmidhi)



## UMAYYAD CALIPHS (89 YEARS)

The Prophet Muhammad ﷺ said:

“The best people are those of my generation (Sahabah), and then those who will come after them (*Tabi'in*), and then those who will come after them (*Tabi' al-Tabi'in*), and then after them, there will come people whose witness will precede their oaths, and whose oaths will precede their witness.” (Bukhari)



According to the author's opinion:  
Names in **bold** are legitimate Caliphs.  
Names in *italic* are not legitimate.

## ABBASID CALIPHS (511 YEARS)

A Muslim woman was captured by the Romans and held in a place called 'Amuriyyah. Not content with only capturing her they tried to dishonour her as well. Frightened and alone she called out the name of the Caliph, "Ya Mu'tasim". A man witnessed this incident and rushed to the Caliph informing him of what had happened. When he heard the plight of this woman Mu'tasim responded bravely, "Labbaik (I am here at your call)." He prepared a large army and set off for battle to rescue the woman. Mu'tasim's army conquered the enemy and entered 'Amuriyyah. After destroying the enemy stronghold, they came to the woman and freed her. (Ibn Athir, Kamil)

Abul Abbas al-Saffah	Al- Mansur	Al-Mahdi	Al-Hadi	Harun al- Rashid	Al-Amin	Al- Ma'mun	Al- Mu'tasim	Al- Wathiq	Al- Mutawakkil	Al- Muntasir	Al- Musta'in	Al- Mu'tazz	Al- Muhtadi	Al- Mu'tamid	Al- Mu'tadid	Al- Muktafi	Al- Muqtadir	Al-Qahir
4 years	21 years	10 years	1 year	23 years	4 years	20 years	9 years	5 years	14 years	1 year	4 years	3 years	1 year	22 years	10 years	6 years	24 years	2 years
750	754	775	785	786	809	813	833	842	847	861	862	866	869	870	892	902	908	932 934

Ar-Radi	Al- Muttaqi	Al- Mustakfi	Al-Muti	At-Ta'i	Al-Qadir	Al-Qa'im	Al- Muqtadi	Al- Mustazhir	Al- Mustarshid	Ar- Rashid	Al- Muqtafi	Al- Mustanjid	Al- Mustadi	An-Nasir	Az-Zahir	Al- Mustansir	Al- Musta'sim	No Caliph due to state of emergency
6 years	4 years	2 years	28 years	17 years	41 years	44 years	19 years	24 years	17 years	1 year	24 years	10 years	10 years	45 years	1 year	16 years	16 years	3 years
934	940	944	946	974	991	1031	1075	1094	1118	1135	1136	1160	1170	1180	1225	1226	1242	1258 1261

## ABBASID CALIPHS WITHIN MAMLUK SULTANATE (256 YEARS)

The Prophet Muhammad ﷺ said:

“Verily you shall conquer Constantinople. What a wonderful leader will her leader be, and what a wonderful army will that army be!” (Ahmed, Al-Hakim)

Al-Mustansir II	Al-Hakim I	Al-Mustakfi I	Al-Wathiq I	Al-Hakim II	Al-Mu'tadid I	Al-Mutawakkil I	Al-Wathiq II	Al-Mu'tasim	Al-Mutawakkil II	Al-Musta'in	Al-Mu'tadid II	Al-Mustakfi II	Al-Qa'im	Al-Mustanjid	Al-Mutawakkil II	Al-Mustamsik	Al-Mutawakkil III	
1 year	40 years	38 years	1 year	11 years	10 years	21 years	3 years	3 years	17 years	8 years	27 years	10 years	4 years	24 years	18 years	11 years	9 years	
1261	1262	1302	1340	1341	1352	1362	1383	1386	1389	1406	1414	1441	1451	1455	1479	1497	1508	1517

## OTTOMAN CALIPHS (407 YEARS)

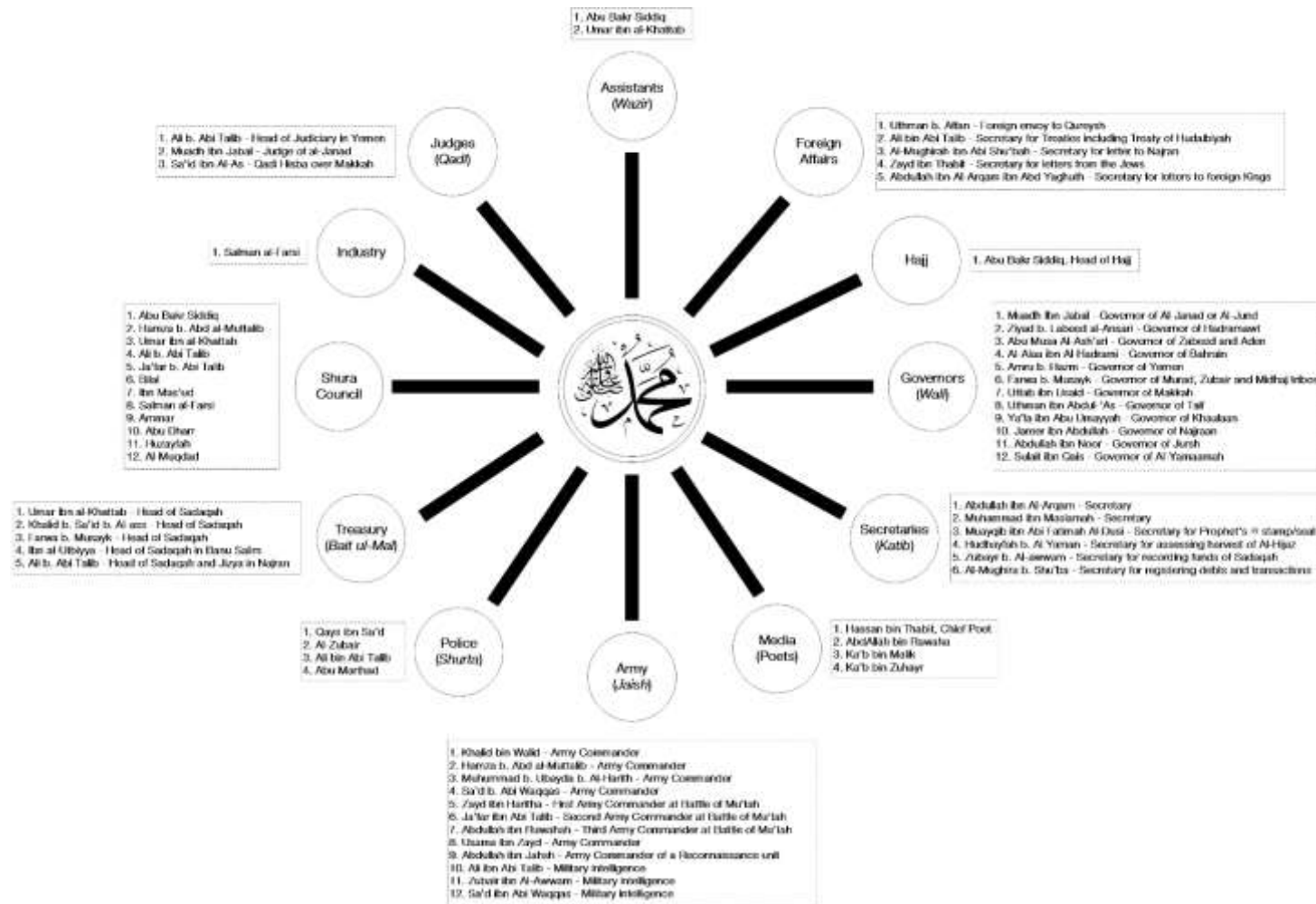
The Prophet Muhammad ﷺ said:

“The example of my Ummah is like the rain. It is not known whether the initial part or the latter part (of the rain) is good.” (Ahmad, Tirmidhi)

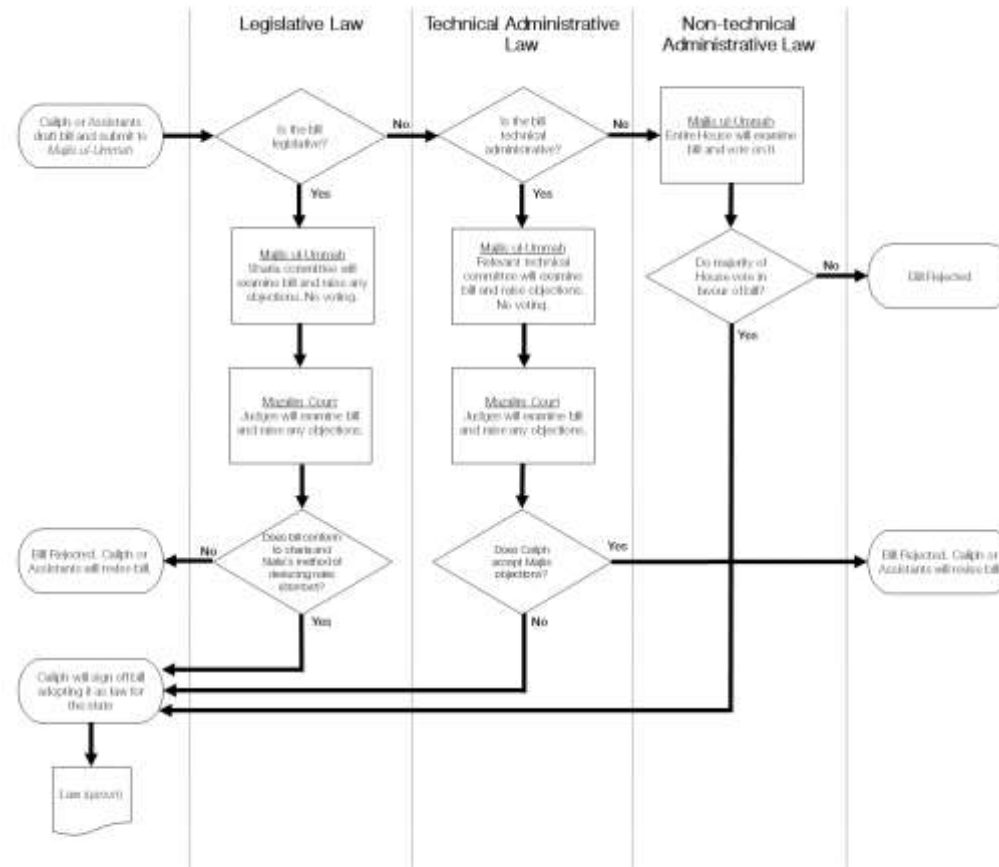
	Suleiman													
Selim I	Al-Kanuni	Selim II	Murad III	Mehmed III	Ahmed I	Mustafa I	Othman II	Mustafa I	Murad IV	Ibrahim I	Mehmed IV	Suleiman II	Ahmed II	Mustafa II
3 years	46 years	8 years	21 years	8 years	14 years	1 year	4 years	1 year	17 years	8 years	39 years	4 years	4 years	8 years
1517	1520	1566	1574	1595	1603	1617	1618	1622	1623	1640	1648	1687	1691	1695 1703

				Abdul-				Abdul-			Abdul-		Mehmed	Abdul-
Ahmed III	Mahmud I	Othman III	Mustafa III	Hamid I	Selim III	Mustafa IV	Mahmud II	Mejid I	Abdul-Aziz I	Murad V	Hamid II	Mehmed V	VI	Mejid II
27 years	24 years	3 years	17 years	15 years	18 years	1 year	31 years	22 years	15 years	3 months	33 years	9 years	4 years	2 years
1703	1730	1754	1757	1774	1789	1807	1808	1839	1861	1876	1876	1909	1918	1922 1924

## APPENDIX IV. ISLAMIC STATE OF THE PROPHET MUHAMMAD ﷺ

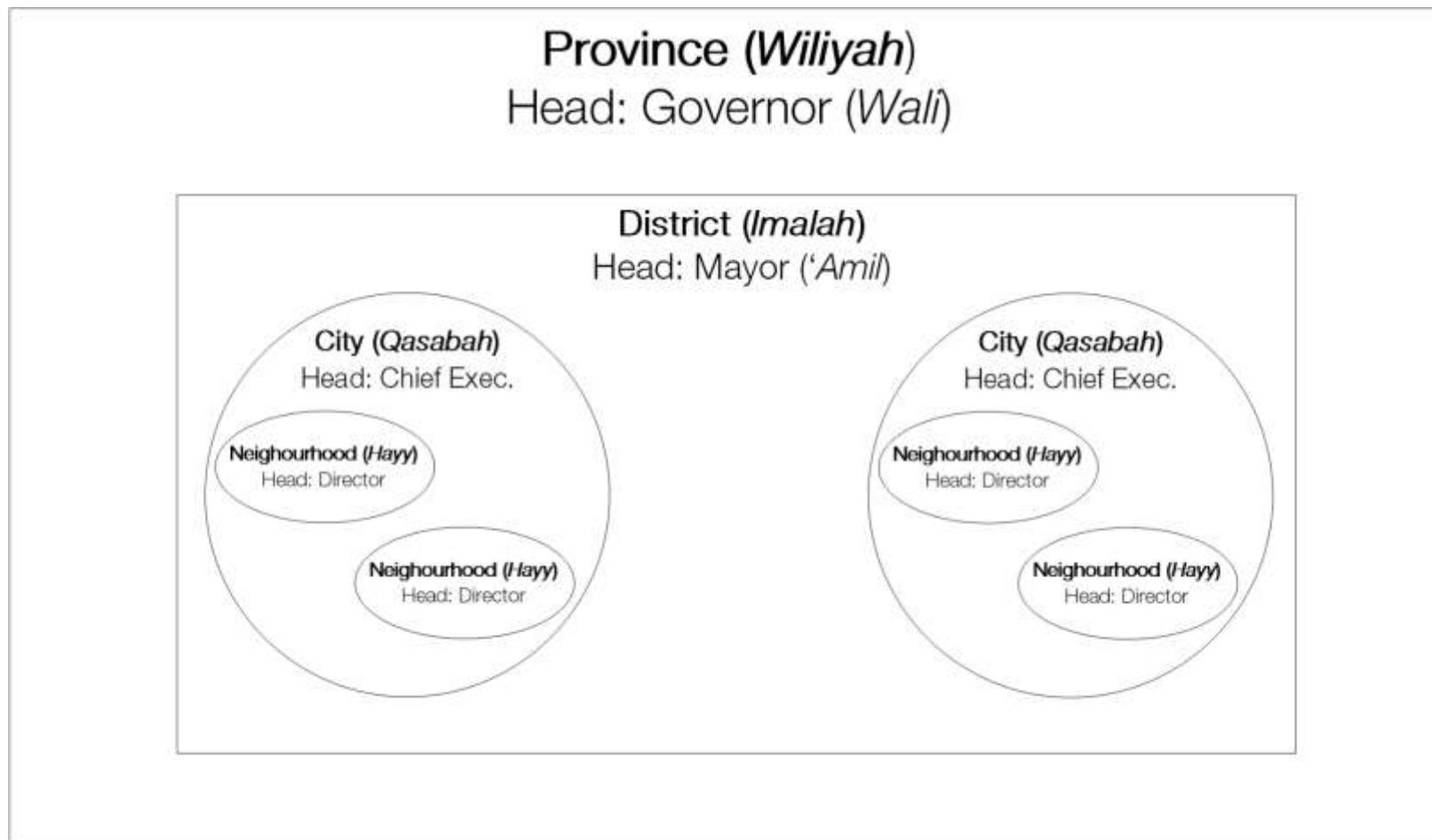


## APPENDIX V. HOW LAWS ARE MADE IN THE CALIPHATE





## APPENDIX VI. ADMINISTRATIVE UNITS OF THE ISLAMIC STATE



The Caliphate is an easy target for those who wish to plant misconceptions and blatant distortions in people's minds about its institutions and rule. Since the emergence of Baghdadi's group in Iraq and Syria which named itself a 'Caliphate' the West has started equating the traditional core Islamic concept of Caliphate with terrorism.

Despite this propaganda campaign Muslims will never give up their desire for a true rightly guided Caliphate to be established in the Muslim world to end the decades of tyranny and western interference.

John Casey sums up this view: **"For the Caliphate had existed as long as Islam itself. That Muslims throughout the world form a single community – an Umma – is not the conviction of a few cranks. It is inherent in all Muslim traditions. Even if the divisions within the Arab world make a Caliphate seem impossible to achieve, very many Muslims – perhaps the majority throughout the world – respond to it instinctively as an ideal. A leader who with God's blessing dispenses law and justice throughout the countries of Islam appeals as profoundly to the Muslim imagination as the kingdom of Christ upon earth or St Augustine's City of God did to Christians in Europe for at least 1,500 years."**

This book will explain how government accountability is achieved through implementing *shari'a* law in a Caliphate. It will elaborate on the various institutionalised mechanisms in place to prevent dictatorship and tyranny from emerging. The vital role of political parties and the state's citizens in holding the government to account will also be addressed.

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